Gender Diversity in Employment and Occupation

Requirements and guidelines to implement anti-discrimination policies for employers

Dr Tamás Jules Fütty, Marek Sancho Höhne, Eric Llaveria Caselles

Gender Diversity in Employment and Occupation

Requirements and guidelines to implement anti-discrimination policies for employers

Study commissioned by the Federal Anti-Discrimination Agency

Authors:

Dr Tamás Jules Fütty, Marek Sancho Höhne, Eric Llaveria Caselles

Table of Contents

Abstract

The legal recognition of gender diversity (Federal Constitutional Court decision of 17 October 2017) and the introduction of "diverse" as a positive legal gender marker (Section 22 (3) of the Civil Status Act) 2018 constitutes the background of this study. At the same time, national and international research shows structural discrimination against gender-diverse people in employment (chapters 1 and 2). Based on the analysis of the current research and interviews with experts, the study goes on to identify fields of action aimed at ensuring the equal treatment of gender-diverse people in employment and occupation. It then develops and elaborates approaches towards the inclusion of gender-diverse people in the workplace (Chapter 3). The key objective is to raise the awareness of employers and functionaries for the recognition of gender diversity and to offer specific guidance on implementing the inclusion of gender-diverse employees. The needs and recommendations mainly concern the following areas: Corporate culture, recruitment, handling gender-related data, language and communication, medical facilities, body, clothing and health.

1. About the study

1.1 Questions and objectives

The Federal Constitutional Court decision of 10 October 2017 (reference no. 1 BvR 2019/16) and the introduction of "diverse" as a third, positive legal gender marker (Section 22 (3) of the Civil Status Act) signalled a definitive shift in Germany towards the recognition of gender diversity[1] and respect of the rights of gender-diverse people. The enshrinement in law of gender and gender identities beyond the binary gender norms of "female" and "male" poses far-reaching demands on the employment sector. People whose legal gender marker is "diverse" and gender-diverse employees now need to be included in all areas of employment in general, establishing comprehensive protection against discrimination. Within this context, the following questions arise: What are the current disadvantages and risks of discrimination in the workplace in relation to gender diversity? As a consequence, which measures must employers take to ensure equal treatment of gender-diverse people? What data, information and recommendations do the state of national and international research provide? According to experts, what are the needs of both employers and advocacy groups for gender-diverse people? What are the challenges and opportunities in implementing protection from discrimination for gender-diverse employees in occupation and employment and in workplace design? What are examples of measures already implemented? This study addresses these and other questions.

Objective and structure of the study

The aim of this study is to develop practical recommendations to implement the legal recognition and protection from discrimination for gender-diverse people in employment and occupation. We examined the current state of research and conducted 30 interviews with employers and experts in anti-discrimination work for trans*, inter* and non-binary people with the aim of identifying evidence-based fields of action in modules of working life and formulating practical recommendations for action to implement protection from discrimination for gender-diverse people in the workplace (Chapter 3). Both needs and positive measures were generated with a view to making workplaces more inclusive in terms of gender diversity.

---

1   In the study, we use "gender plurality" and "gender diversity" interchangeably. There are advantages and disadvantages to both of these terms. In using both terms, our intention is to build on discussions on "gender plurality" while also exposing the problematic use of the term "gender and sexual plurality", which often does not explicitly address the specific concerns and realities of inter*, trans* and (other) non-binary people, thereby rendering them invisible as a result. We use the term "gender diversity" in reference to today's sea change in gender recognition legislation, but mainly in the context of the overarching term "gender-diverse people", which we use to discuss specific situations in life and discrimination against people whose gender identity does not correspond to binary norms. However, we are also aware the use of the latter term does not fully address criticisms coming from inter* and trans* communities and instead sets them aside. (For more information, see subsection 1.3.)

In the first chapter (1), the basic principles of the study are presented, in particular **the underlying research questions on the implementation of measures to ensure the equal treatment** of gender-diverse people in occupation and employment (1.1) and **the methodological design of research** – as a combination of qualitative content analysis and guided interviews (1.2). The procedure for developing measures is also described. In 1.3 and 1.4, the **key terms and concepts** of the study are explained in relation to gender diversity and anti-discrimination measures. The concept of anti-discrimination used in this study – within the context of gender diversity in the employment sector – contains measures to ensure recognition, inclusion and the promotion of equality of opportunity as outlined in subsection 1.4.

The second chapter (2) taps into the **current state of national and international research on discrimination against inter*, trans* and (other) non-binary people**. While subsection 2.1 focuses on structural discrimination, which permeates all areas of society and has a negative impact on the lives and health of gender-diverse people, 2.2 specifically focuses on discrimination in employment and occupation. We explain how disadvantages (arising from binary gender norms) affect all phases and aspects of working life for gender-diverse people. Following this, the current legal framework is discussed in 2.3, the outcome of which infers that employers are required to implement anti-discrimination measures with respect to gender-diverse employees.

The discrimination risks and experiences described in chapter 2 lead to the definition of areas in which discrimination against gender-diverse people in employment and occupation must be reduced and prevented. The measures that can be taken to achieve these goals and specific recommendations to this end are described in the third chapter (3). Chapter 3 goes over the developed **fields of action and recommendations**. They are explored as individual subsections and are interrelated in terms of content. Although it is recommended that the study is read as a whole, the aim is that the individual fields of action can also be read separately. Within the fields of action, we have implemented a structure of modules that build upon and complement each other. Information boxes in blue provide more detailed information on specific aspects and examples of implemented measures, such as an example of an all gender inclusive job advertisement.

This social science study does not claim to be legally exhaustive; nor does it constitute a legal opinion. The recommendations for action given to employers cannot necessarily be implemented in every possible situation and cannot always be characterised as legally binding. There are still many legal uncertainties when it comes to the inclusion of gender-diverse people in the workplace, which cannot be overcome in the course of this study. The aim of the study is to present options to employers that may provide support and guidance in the implementation of anti-discrimination measures.

Subsection 3.1 focuses on the structural integration of **all gender inclusive corporate culture**, based on awareness-raising measures targeted at management, human resource managers and employees. The goal here is to promote a basic understanding of why real changes, for instance regarding personnel policy, language or toilets, must be made. This subsection also discusses how to handle resistance in the workforce to transformation processes and discrimination incidents. A preventive approach and educational measures are particularly important in this regard. In addition, this subsection discusses public relations work and networks that promote the recognition of gender diversity and the implementation of an all gender inclusive company culture in internal and external communication.

3.2 focuses specifically on recruitment. It starts with gender-diverse recruitment practices, language and the handling of application documents and preferred names that differ from those contained in certificates and transcripts. It then provides recommendations for recruitment procedures in order to ensure equal treatment of gender-diverse employees, such as transparent selection criteria and professional and all gender inclusive interactions with candidates during interviews. In addition, a separate module addresses the specific features of gender-specific job advertisements.

3.3 addresses issues regarding the practical handling of **gender-related data**, in order to implement measures supporting gender diversity and to comply with informational self-determination and data protection requirements. The study recommends that the collection and use of gender-related data should be restricted to what is legally required, without reinforcing any existing discrimination in the process. To this end, we specifically address the handling of official data (first name and legal gender marker) in human resource management. Moreover, various options for implementing changes in the name and legal gender marker of gender-diverse employees are examined in detail. Furthermore, we discuss the technical feasibility of work organisation tools, such as recommendations for employment contracts and employers' references.

3.4 discusses the meaning of **all gender inclusive language and communication** in relation to inter*, trans* and (other) non-binary people and how it can be implemented. The key here is the use of self-designations, names and pronouns and the correct way of addressing gender-diverse employees in day-to-day working life. In addition to resources and specific language examples, we outline the basic principles of inclusive language and communication. Moreover, recommendations are given on how to transition to all gender inclusive language and communicate new names or forms of address for employees.

Subsection 3.5 raises awareness about the need to make **sanitary facilities** at the workplace gender inclusive. In this context, people often overlook the fact that gender-neutral toilets and changing rooms have long been the norm in everyday life in places such as trains, planes or shops that only have single cubicles. The study explores the potential resistance of staff and provides specific recommendations for the design and labelling of gender-neutral sanitary facilities at the workplace.

3.6 addresses both formal regulations for **gender-diverse work clothing** and questions relating to **informal rules for "acceptable" appearance and conduct**. Since the latter are opaque and intricately linked to binary norms, they pose a particular risk of discrimination for gender-diverse employees. In addition to specific guidance on all gender inclusive dress codes, considerations and understanding of gendered informal regulations on "professional appearance and conduct" are the central discussion in this subsection. Furthermore, occupational health and safety for gender-diverse employees is discussed in greater detail. This includes the handling of gender-related medical procedures, assumed frequent periods of absence due to illness and increased psychological stress. Important information is also provided on considerations of gender diversity in health management (including considerations for pregnancy and parental leave regulations) and for preventing retraumatisation and preserving physical integrity during medical examinations.

In section 3.7, we present our concluding remarks on the study. The following service section (4) covers assistance and detailed information and provides references to additional resources, including guides, guidelines and manuals, some of which contain links. These should be regarded as explanatory examples and do not constitute direct or unqualified recommendations. They should be reviewed and applied with caution, especially in light of potential reproductions of (implicit) binary gender norms and hidden intersectionalities.

Target groups

The study is aimed at **employers and managers** in particular and is intended to provide them with practical support in ensuring inclusive, respectful and therefore professional treatment of gender-diverse people in employment and occupation. The measures apply to large, medium-sized and small companies and organisations and address other **external actors** in addition to the public service and private sectors.

The study is also important for anyone working in equality, anti-discrimination or diversity to learn about the needs of gender-diverse people and to broaden concepts of inclusion in the employment sector with regard to gender diversity. In addition to **in-house implementation managers** and functionaries, this also includes people working as consultants to employees and employers, such as in-staff and works councils, trade unions, organisational development, coordination offices, networks, trade associations, professional associations, chambers of commerce, etc.

Finally, the study is also aimed at **inter* and trans* associations and counselling centres** with the intent of supporting them in their work towards achieving equality for inter*, trans* and other non-binary people. Last but not least, the aim of this study is to provide a resource for all gender-diverse people and anyone wishing to support them in a spirit of solidarity, which they can use to improve the recognition, inclusion and equality of opportunity in gender diversity in the workplace for themselves and others.

1.2 Methodological approach

For this study, we use a mixed methods research design consisting of qualitative content analysis and guided interviews to identify needs, establish fields of action and develop measures.

Qualitative content analysis

The research process began with a comprehensive **qualitative content analysis** (Gahleitner 2005; Mayring 2015) of the relevant German- and English-language literature on the subject from the last ten years. The following questions were the mission statements for the analysis: What kinds of discrimination do inter*, trans* and (other) non-binary people experience on the labour market? What measures are already in place for the recognition, inclusion and promotion of equality of opportunity for gender-diverse people in occupation and employment? Which measures do inter* and trans* organisations call for? What else is needed to ensure equal treatment with regard to gender diversity in the workplace?

Existing data

Four German studies were identified that collected their own **empirical data on gender-diverse people and work** (Frohn & Meinhold 2016; Frohn, Meinhold & Schmidt 2017; Frohn, Vienna & Buhl 2019; Orth 2018). Due to the obvious **research deficit**, the data from Germany had to be contextualised. To do this, the German studies were assessed in the context of European and US American studies. A comprehensive systematic study of the state of international research up to 2010 was carried out by Sauer and Franzen in the report "Discrimination against trans* people, especially at work" (Franzen & Sauer 2010). Based on this, we analysed an additional 39 **international publications**, which examined the experiences of trans* and non-binary people in the workplace between 2010 and 2019.[2] Only one study focused on the discriminatory attitudes and actions of employers (Van Borm & Baert 2018). No studies on inter* people and work were found. The **lack of studies on the situation of inter* people in the workplace** represents a research deficit that makes anti-discrimination projects more difficult and must be remedied by funding research projects to this end. In addition, we contextualised the studies on the situation of gender-diverse people in the employment sector by taking into account an additional 37 studies and reports about the overall life situation of gender-diverse people in Germany.

A total of 37 documents from the German context and an additional 34 documents from Australia, the UK, Canada and the US[3] were examined in order to develop anti-discrimination measures and instruments. There are two types of publications: Firstly, legal opinions and expert reports with recommendations on the implementation of anti-discrimination measures based on gender and gender identity in the workplace developed by inter* and trans* associations, organisations and public authorities[4]; secondly, the internal guidelines of companies and institutions (such as universities) on the inclusion of gender-diverse people.[5]

Based on the qualitative content analysis, we took stock of the approaches currently available. We then created an initial draft of the fields of action and recommendations for the recognition, inclusion and promotion of equality of opportunity for gender-diverse people in employment and working life. A key objective of the analysis was to identify fields of action for which no or only insufficient measures had been previously developed.

---

2   For example, Grant et al. 2011; FRA 2014 and 2020; Totaljobs 2016; James et al. 2016, Fogarty & Zheng 2018; Geijtenbeek & Plug 2018.

3   These countries are of interest due to their respective legal situation: the United Kingdom with the introduction of the Gender Recognition Act in 2004 and the Equality Act in 2010; Canada with the inclusion of gender identity in the Canadian Human Rights Act in 2017; Australia with the Sex Discrimination Act, which has formally protected people with intersex status against discrimination since 1984 and was reformed in 2013 to allow a third sex option X in the register. The US is relevant due to the intersectional perspective of relevant research into discrimination against gender-diverse people. In addition, approaches to diversity management and inclusion are recognised in employment and occupation in these four countries, where more and more consideration is being given to gender diversity. The study and the examples presented are not conclusive, nor are they universally valid or applicable. The study includes mainly online German and English-language literature so that employers in Germany can easily refer to them.

4   For example, Carpenter & Hough 2014; Ghattas 2015 and 2019; Fuchs et al. 2017; Whittle & Turner 2017; PSAC 2018; LADS 2020.

5   For example, SAP 2014; Ernst & Young 2017; NHS Devon Partnership 2018; Bitzan 2019.

Guided interviews

The second step was to conduct **semi-structured guided interviews** (Misoch 2019, pages 65 et seq.) with employers on the one hand and representatives from inter* and trans* organisations on the other. The objectives of the interview research were: (1) to acquire additional knowledge about the discrimination experienced by gender-diverse people and fields of action to combat discrimination in the workplace; (2) to identify approaches in specific fields of action in the workplace and positive practical experiences; and (3) to identify difficulties, barriers and problems encountered when developing and implementing measures. For the interviews, we developed a guide with 53 questions for employers and a guide with 49 questions for inter* and trans* organisations.

Interview sample

A total of **30 interviews** were conducted, including eleven interviews with private companies – of which eight were large companies and three were small and medium-sized companies – six with public sector employers and three with trade union representatives. In addition, three interviews were conducted with employers from the social services sector and seven with inter* and trans* organisations. The interviews were conducted on-site by telephone or via online telephone and ranged from 40 minutes to around two hours long. They were documented with audio recordings and interview logs for further processing and were securely archived. Prior to the interviews, a written data privacy policy ("informed consent") was agreed with the interview subjects and complete **anonymisation** was assured. To this end, the names of the interview subjects, companies, public authorities, trade unions, associations and organisations have been omitted from the study.

Development of fields of action and key modules

Based on the qualitative content analysis, measures were derived and recommendations for key fields of action were developed based on the following **criteria**: Do the measures support equal treatment (as defined in subsection 1.4)? Which measures have a positive effect in terms of prevention and counteracting disadvantages? Are employers informed of them or are they required by law? Are the measures compatible with existing anti-discrimination and equal treatment approaches? Are they applicable in different working contexts (private, public, large, small and medium-sized companies) and for employers with different resources? Do the measures relate to work structures at various levels (guidelines, competencies, everyday practices, etc.) and provide instructions that are specific as possible?

Based on the interviews, the six identified fields of action and the corresponding measures were examined, adjusted and expanded. Having developed the structure and organisation of the fields of action in advance, we adapted them to reflect the practical experience of the surveyed employees more closely. The normative anti-discrimination requirement was also assessed in relation to the expertise and particular experiences of discrimination and realities of life shared by the interviewed representatives of inter* and trans* organisations. New findings on measures and approaches from the interview analysis were expanded and additional fields of action were included. Moreover, criteria in terms of the **practical feasibility in various working contexts** were derived from the interviews with employers and taken into account in the process of redesigning and adapting the existing measures. The focus here was on developing measures with the aim of both **counteracting the existing disadvantages** and **preventing discrimination**. The protection of employees against discrimination includes explicitly positive measures according to Section 5 of the German General Act on Equal Treatment (AGG) and preventive measures according to Section 12 AGG.

In writing the study, **the practical measures in Chapter 3 were formulated as recommendations for action**. Wherever permitted and required by the current state of research, we specify **the various needs specific to a given group** or special legal regulations or medical regulations for inter*, trans* or (other) non-binary people. We also underscore the importance of using affirmative and empowering self-designations and the associated struggles for recognition of self-determination and equal participation. Nevertheless, **overarching recommendations for action can be generated and formulated for employers**, since inter*, trans* and non-binary are terms that describe different groups of people but are not mutually exclusive, and which people also identify with at the same time. Anti-discrimination measures serve to change the binary norm in the employment sector and **should benefit all (gender-diverse) people**. Changes that meet the needs of non-binary people should not conflict with the needs of binary inter* and trans* people and vice versa.

1.3 Gender diversity terms

Gender diversity terms and their use are subject to constant change, are linguistically and socioculturally situated and used in different ways depending on the context. According to the German Civil Status Act (PStG), people who do not identify as male or female can be registered as "diverse" or have no gender registration at all (see Section 45b (1) page 1 of the Civil Status Act in connection with Section 22 (3) of the Civil Status Act). However, the term "diverse"[6] is not how people describe themselves, but was developed in the course of the amendment of the Civil Status Act. It should serve instead as a collective term (Kasten 2019, page 2). We use the term **gender-diverse people as a generic term** to describe inter*, trans* and (other) non-binary people (see Fogarty & Zheng 2018, page 17). We explain our understanding of the terms in the following section and then clarify our use of "gender-diverse" as the central terminology of this study. We use the gender star or asterisk * as a way of representing the diversity of inter and transgender realities and physicalities.

Inter* is an emancipatory term and a self-designation of people whose "genetic, anatomical and/or hormonal sexual characteristics from birth do not correspond to the sexual norms of women and men" (Intersexuelle Menschen e.V. 2020). Many inter* people are medically pathologised because of their physical sexual characteristics and forcibly normalised to conform with binary standards. In many cases, this leads to a violation of their human rights to physical and mental autonomy (Ghattas et al. 2015, page 15). Inter* people can identify with various gender identities.

Trans* is a generic term and a self-designation of and for people "who do not identify or do not only identify as the sex they were classified as at birth, or do not (only) (want to) live in the associated gender role" (Hindemith et al. 2019, page 108). Trans* people change their gender identity in the course of their lives. Some identify as a binary gender (female or male), while others identify as neither female nor male, as non-binary or outside of the binary gender model (see Baumgartinger 2017, pages 45–46).

---

6   Until recently, the definition of the new Civil Status Act had been contested. There were additional terms besides "diverse" that could be employed, such as "other", most of which did not originate in proposals from the community.

The term **non-binary people** refers to people who do not identify or do not only identify as women* or men* or (only) female or male. It should be noted that although "non-binary" is a common self-designation, its formulation using the prefix "non-" is centred on the deviation from a binary norm as a moment of absence or flaw, which can be problematic. We use the words "inter*, trans* and (other) non-binary people" to indicate that inter* and trans* people can also be non-binary, but not all non-binary people are necessarily inter* or trans*. In other words, the formulation recognises both binary and non-binary inter* and trans* people, as well as people who describe themselves as non-binary and do not consider themselves as either trans* or inter*.

Cis people identify as the gender in which they were categorised at birth and largely with the gender identity to which they were assigned. The term "cis" is often understood and used as a counterpart to trans*. From the perspective of inter* people, the problem arises that their experiences and self-understanding through this dichotomous use of the terms trans* and cis are not represented. Some inter* people identify themselves in part as the sex with which they were categorised at birth. "The fact that inter* people may be cis, but do not benefit from the usual cis privileges, remains invisible, since an intergender body and gender is not protected, recognised or even valued" (Ghattas et al. 2015, page 8).

For this reason, we use the term "**cis dyadic**" in the study. **Dyadic** (or "**endo**") is a person whose "physical constitution at birth corresponded to the societal notions of male and female bodies expressed in medical norms" (Kasten 2019, page 5). Dyadic therefore refers to people who are not inter*. The term cis dyadic therefore prevents inter* people from being rendered invisible. Accordingly, the compound cis dyadic people refers to those who benefit from the privilege of a gender binary. This includes people whose physical sexual characteristics meet medical norms and whose self-concept corresponds to normative assumptions of gender, according to which the body, behaviour and identity are (more or less) clearly male or female.

We use **men* and women*** with the asterisk * to indicate that these terms include inter* and trans* people who (also) identify as male or female. When referring only to cis dyadic women and men, we explicitly precede "woman" or "man" with "cis dyadic" and do not use an asterisk *.

The term "**gender-diverse people**" is a generic term for a range of identities and positionings that do not correspond to the gender binary. This term designates those who are not cis dyadic people. One problem with the formulation "gender-diverse people" is that the term is often associated with and reduced to the legally recognised third positive gender designation "diverse". However, our use of the term **refers to gender diversity** and not to the term "diverse" from the new Civil Status Act, which is currently rejected by inter* people and communities.[7] The danger of the collective term "gender-diverse people" is that the diversity of identities, identifications and lived realities of inter*, trans* and (other) non-binary people, their respective different experiences of discrimination and their specific needs risk being homogenised, and also that the different emancipatory concepts and associated struggles for recognition (for example inter*) could be made invisible. The term "gender-diverse people" must therefore be used consciously and judiciously. Inter*, trans* and non-binary people should be **named and made visible** in order to do justice to the differences between gender-diverse people, despite any similarities.

---

7   For example, Dritte Option (third option) welcomed the "legal recognition of the fact that there are more than two sexes", but found it regrettable that "the legislator failed to pass a constitutional law despite knowing better and despite some serious criticism of the bill. Since people whose gender identity is neither male nor female are unable to register their gender accordingly due the will of political groups, the fundamental rights of these people continue to be violated" (Dritte Option 2018). The reform of the Civil Status Act is discussed in more detail in subsection 2.3.

We assume that gender-diverse people share certain experiences of discrimination in occupation and employment, based on assumptions of binary norms (cis dyadic female – male) and related gender stereotypes and gender-specific expectations: "For example, exclusion and discrimination often occur due to a certain discrepancy between an assigned (that is, externally perceived) sex, a gender identity (perceived sex) and a gender expression (for example, clothing, hairstyle, etc.)" (Lugk et al. 2018, page 7). At the same time, gender-diverse people have very different experiences with structural and individual discrimination. Experiences of discrimination may vary depending on whether the person is, for example, an inter* person, a trans* woman or a non-binary person. We try to take these differences into account as much as we can. At the same time, more specific research is required in this area.

1.4 Key concepts for discrimination and equal treatment

In addition to the concepts of gender diversity introduced in 1.3., this chapter presents the concepts for discrimination and equal treatment to which we refer in the study. The forms and levels of discrimination and equal treatment described here form the basis for determining the need for action in Chapter 2 and for developing recommendations for action in Chapter 3.

Discrimination

Our references to discrimination include both direct and indirect discrimination (see Elsuni 2011, pages 220–221). Direct discrimination occurs when a person is treated worse than another person due to (assigned) membership of a group. Indirect discrimination occurs when supposedly neutral treatment leads to certain groups of people being disadvantaged: "Historically developed and deeply rooted discrimination leads to different life situations of the affected groups. Formally identical regulations therefore have different effects" and can consolidate actual inequality between social groups (Sacksofsky 2010, page 2).[8] An example of direct discrimination is the rejection of applicants on the basis of their age, religious affiliation or gender identity, or rejection from the outset as "not a good fit for the team". It is indirect discrimination when, for example, all part-time employees are excluded from certain training programmes. As it is often women* in particular who are employed part-time, they experience indirect discrimination due to their gender as a consequence.

In addition to direct and indirect forms of discrimination, a distinction can be made between the levels of individual, structural and institutional discrimination. **Individual** discrimination refers to discriminatory acts against people on the basis of (assigned) membership of a group, even if negative effects are not always intentional and prejudices are not always conscious. Individual discrimination cannot be considered in isolation, but is instead interwoven within a complex network of structural layers of discrimination.

---

8   In Germany, discrimination legally refers to prejudice against people on the basis of a characteristic without a justifiable reason. In this study, we use the term discrimination. For a legal definition of the terms indirect and direct discrimination or harassment and sexual harassment, see also Section 3 of the General Act on Equal Treatment – Definitions.

At the **institutional** level, discrimination is caused by the norms, rules and routines of institutions and organisations (see Gomolla 2019, page 134). Examples of powerful institutions within a society include educational institutions such as schools and universities, the police, job centres or employment agencies. Institutional discrimination occurs when certain categories of people are denied opportunities and rights due to laws, regulations or informal agreements ("that's how we've always done it"), institutional arrangements or established practices. These are often "established and implemented without prejudice or negative intent" (ibid., page 146). However, institutional practices and regulations are constantly being modified and adapted to social circumstances and changes. This also means that actors within an institution, especially in management and leadership positions, have the power and the responsibility to act. They must therefore constantly review their actions and the institutional framework for risks of discrimination – which are often hidden – and commit to an anti-discrimination policy.

Structural discrimination is defined as discrimination that has developed historically and socially and can no longer be clearly attributed to any specific institutions or people – for example, when everyday prejudices in everyday practice are condensed into extensive situations of discrimination in the labour market or structural violence (ibid., page 149). Institutional and structural discrimination, such as the gender pay gap (Federal Statistical Office 2020), affects a range of levels that determine access to socially relevant resources and opportunities for participation in areas such as education, training, work, housing, state services, income, health care or legal protection.

In addition, structural discrimination often manifests itself at the **symbolic level** (Ha 2007). This includes cultural models, predominant language, hegemonic historiography, discourse norms, and other phenomenon. The symbolic level shapes people's perception and patterns of interpretation and indirectly legitimises structural and individual discrimination. It includes the way in which certain population groups are referred to and what is associated with them. Social hierarchies emerge when negative group constructions are essentialised and homogenised. In the "culture of dominance" (Rommelspacher 1998), notions arising from a hegemonic position are privileged and the experiences and perspectives of discriminated groups are marginalised. The reversal of true power relations, for example, when privileged groups are construed as "threatened" or disadvantaged (hooks 1992; Hill Collins 1999), also represents a form of structural discrimination at the symbolic level.

Heteronormativity and the normative gender binary

Gender discrimination as we understand it includes heteronormativity and the normative gender binary[9] as fundamental aspects. Any unequal treatment of people who do not conform to the norms and notions of the gender binary, do not correspond to heteronormativity and are penalised for this is therefore discriminatory. The legal and social pressure to conform to binary heteronormativity also has a discriminatory effect.

---

9   Heteronormativity and the gender binary are related and implicitly embedded within each other. Together they form the anchors of a normative gender binary.

Heteronormativity is "a binary, dualistically and heterosexually organised and organising pattern of perception, action and thought, which as a fundamental social institution contributes to the naturalisation of heterosexuality and the gender binary" (Degele 2005, page 5). In the normative **gender binary**, only the social categories of cis dyadic men and women are recognised. These are constructed and naturalised as biological opposites, which are based on the physiological characteristics and functional differences of bodies and whose meaning is constituted within the purpose of reproduction (Fausto-Sterling 1992 and 2000; Voss 2011). The organisation of society is also structured by the institutional privilege of heterosexual partnerships and families as a legitimate place of reproductive sexuality.[10] Moreover, social duties, rights and privileges are distributed according to the binary concept within the categories of cis dyadic male and female, whereby cis dyadic men are structurally privileged in relation to cis dyadic women. In addition, normative notions of femininity and masculinity are culturally established. This results in pressure on all people to maintain gender coherence and behave according to gender roles (Connell 1987; Risman 2018).

Gender as a feature of discrimination and intersectionality

From an anti-discrimination point of view, **gender** is a set of hierarchised gender-related norms and expectations of individuals with regard to their identity, social responsibility and role expectations, characteristics, behaviours and desires: "higher/lower performance, primary responsibilities for family, passivity/activity, assertiveness/empathy are expectations against which the law can protect; not only by ceasing to sanction violations of these gender norms, but also by helping to reduce the underlying assumptions" (Adamietz 2011, page 258). Anti-discrimination in relation to gender therefore requires the "liberation of other people from behavioural constraints to which they are subject due to societal, individual, structural, conscious or unconscious expectations" and which constitute a disadvantage (ibid., page 258). Taking a post-categorical approach, the categorisation itself counts as discrimination insofar as it produces an "essentialising assignment to one or more hierarchically ordered social groups with a disadvantageous intent or effect" (Lembke & Liebscher 2014, page 283). Laura Adamietz describes this as a "ban on gender discrimination as protection against expectations" (2011, page 254).

Furthermore, gender is to be understood as an **intersectional** and interdependent social category that is always constituted in and through its interaction with other categories, such as race, class, nationality, disability, sexual orientation, age, etc. Intersectional perspectives underscore that social categories cannot be analysed separately and are linked to structural inequalities in society (Crenshaw 1989; Hill Collins & Bilge 2016). This pertains to the contextual and complex interaction of multiple dimensions of social inequality. One-dimensional and monocategorial considerations of only certain dimensions of inequality are rejected in an intersectional approach. Even additive approaches do not consider how dimensions of inequality can reproduce and reinforce each other or weaken each other. It follows that the notion of **multidimensional discrimination** in anti-discrimination law takes into account the fact that identities and life plans are complex, multifaceted and changeable: "We all have/live/experience at least one (assigned) sex, skin colour, a certain age, certain religious or ideological attitudes, etc." (Elsuni 2014, page 162). Discriminatory acts are therefore rarely limited to a single assigned dimension of identity: "Every act of discrimination is different; each is experienced individually, and almost all are multidimensional, even if not all dimensions are equally weighted. Sometimes it is the interaction of several categorisations that leads to discrimination, while sometimes different categorisations work alongside each other. In real life situations, however, this cannot be 'cleanly' separated" (Baer, Bittner & Götsche 2011, page 28).

---

10   The privilege of heterosexuality is currently undergoing change, for example, as shown by the legal amendment to allow "Marriage for All" (amendment of Section 1353 (1) page 1 of the German Civil Code (BGB), which entered into force on 1 October 2017). However, there is still a need to break down existing privileges, especially in adoption law.

Gender binary and epistemic violence

All forms of discrimination have an epistemic dimension. According to Spivak, **epistemic violence** is about how historically developed, structurally and institutionally established inequalities manifest themselves in structures of thought and knowledge and the way in which certain groups of people are thought of and written about from a hegemonic perspective (Spivak 1988; Butler 1997 and 2011). For gender-diverse people, the epistemic dimension of discrimination relates to the **systemic failure to recognise** them as equal subjects (abjection) within the context of the heteronormative gender binary and the way they are **structurally invisiblised and pathologised**. As a result, gender-diverse people are denied the right to exist – directly or indirectly – or permitted far fewer life chances, particularly in terms of self-determination and equal participation.

Despite the partial and formal recognition of certain gender-diverse people in the Transsexuals Act (TSG) and Civil Status Act, the epistemic level of discrimination in the context of gender diversity is fundamentally and deeply rooted in science and culture. Since the subject positions, self-understanding and experiences of gender-diverse people do not fit into the gender binary thought and knowledge structures and call them into question, the existence of such people is either denied, or they are defined as a form of deviation that is declared pathological. This consolidates a social order in which only certain cis dyadic existences are conceivable, utterable and therefore intelligible, while those of inter*, trans* and (other) non-binary people are rejected as unviable (Butler 2011).

This epistemic dimension of discrimination, which particularly affects gender-diverse people, has so far not been taken into account in institutionalised approaches to equality and equal treatment based on the experience of cis dyadic women and men. For this reason, the approaches thus far have not been effective or not effective enough to understand and combat discrimination against gender-diverse people. Approaches to gender equality and equal treatment therefore have the **potential** to include gender-diverse people, but only if they fully address the aforementioned institutional, structural and epistemic dimensions of discrimination within the context of gender diversity.

Recognition, inclusion and equality of opportunity

According to our understanding of the term, **anti-discrimination** refers to the necessity to examine those social processes and structures that lead to an unequal distribution of material life chances and create vulnerabilities. As we are dealing with a continuous and permanently ongoing process, we use the terms "equal treatment" and "low-discrimination" instead of "non-discrimination". Applied practically to occupation and employment, our concept of the equal treatment of gender-diverse people is a **three-dimensional model consisting of recognition, inclusion and promotion of equality of opportunity**. The recommendations for action in Chapter 3 refer to these three dimensions of equal treatment. However, due to the interaction between recognition, inclusion and the promotion of equality of opportunity, the measures cannot always be assigned to a single dimension and must be understood as encompassing measures to protect against discrimination.

Recognition: Discrimination and violence against gender-diverse people or their mere existence is often not taken seriously or devalued as a mood or trend, which denies their credibility and capabilities – and this in particular is critical to the setting of work and employment. For a consistent implementation of anti-discrimination measures as we define them in this study, it is imperative to accord equal recognition to all persons regardless of their gender and gender identity. In order for this to happen, **we must acknowledge the diverse livelihoods of gender-diverse people** and ultimately, their **self-determination**. This is the only way for gender-diverse people to be recognised as equals in everyday working life. Given the pervasiveness of gender binary norms, in-depth knowledge is required about gender diversity and specific lived realities, identity concepts, incidents of discrimination and needs of gender-diverse people. Subsection 3.3 "Handling gender-related data" asserts that, in order to recognise gender diversity, it needs to be consistently taken into account and reflected in administrative processes. Subsection 3.4 "Language and communication" implements recognition through the use of all gender inclusive language that is sensitive to discrimination.

Rights do not automatically generate social recognition and acceptance (Foroutan 2019, pages 80–81). **Political and formal forms of recognition** (through laws, for example) are therefore important, but social negotiation processes do not end there, given that written law and legal norms are subject to processes of interpretation and must be translated into practice. We therefore follow Nancy Fraser's extended understanding of recognition in connection with redistribution as "co-fundamental and mutually irreducible dimensions of justice" (Fraser & Honneth 2003, page 9). To effectively protect gender-diverse people from discrimination, it is needed to acknowledge the **lived realities** of gender-diverse people on the one hand and grant **equal life chances and opportunities to engage and participate** on the other.

This aspect of recognition is explored in more detail in the recommendations for action in subsections 3.1 "All gender inclusive corporate culture" and 3.2 "Recruitment". In both fields of action, formal recognition of gender diversity must be put into practice through awareness-raising in order to reduce discrimination and improve the opportunities for integration and participation for gender-diverse people in the real world.

Inclusion: Our concept of inclusion is in line with the understanding of social participation and self-determination as enshrined in the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD 2008). Importantly, the aim of the Convention was not specifically to grant special rights to people with disabilities. Instead, inclusion is about **safeguarding human rights** by removing the structural barriers that prevent equivalent opportunities for integration and participation. According to Biewer, inclusion can be regarded as **a process of society at large**, whereby "labelling and categorisations are rejected and the rights of vulnerable and marginalised people are taken as a starting point. It argues in favour of the participation of marginalised and vulnerable people in all areas of life and aims to achieve structural changes in the regular institutions in order to accommodate the diversity of the backgrounds and needs of all users" (Biewer 2009, page 193).

This call for inclusion can be applied to other hierarchically disadvantaged groups without losing sight of the specificities of the UN CRPD (Bittlingmayer & Sahrai 2018). In the interpretation of inclusion, the following aspects are relevant in relation to gender-diverse people (Bielefeldt, 2009). First, the principle of recognition is directly related to the unconditional warranting of human dignity. This also includes **an overall social awareness of gender diversity**. The aim is to expand the notion of what is normal within mainstream society to include the existence of inter*, trans* and (other) non-binary people. Secondly, it has less to do with the people affected by discrimination and their characteristics and more to do with the exclusive and discriminatory processes, practices and structures that prevent equal opportunities for integration and participation and therefore equal life chances. The call to remove barriers to participation and to transform social structures is derived from the right to inclusion as a manifestation of the right to participate. Thirdly, self-determination is placed in an indissoluble relation to inclusion and integration within a community or society. The call for social inclusion thus rejects both the paternalism practised by the state or other institutions and a complete individualisation of the assumption of responsibility for one's own lifestyle (the illusion of the self-sufficient individual). The aspect of eliminating barriers to participation as part of inclusion is highlighted, for example, in the recommendations for action in subsections 3.5 "Gender-neutral sanitary facilities" and 3.6 "Clothing, body and health".

Promoting equality of opportunity: A third element of our anti-discrimination approach to gender diversity is the promotion of equality of opportunity. An unequal distribution of social opportunities results from historically persistent structural discrimination, which must be actively counteracted by positive measures. This means that opportunities to obtain "money, free or flexible available time, access to influential positions, fulfilment of personal desires, safety from any form of violence […] are not distributed by chance, but are instead structured through racism, age-related discrimination, disability, […], through sexism and heterosexism" (Baer, Bittner & Götsche 2010, page 25). Positive measures are understood as "all activities that are implemented to fully and effectively ensure equality of opportunity for all members of society who are at a disadvantage or who must otherwise suffer the consequences of past or current discrimination" (Klose & Merx 2010, page 5; see also Porsche 2016).

In promoting equality of opportunity, a distinction must be made between measures aimed at either formal or substantial equality of opportunity. In terms of **formal equality of opportunity**, it suffices "if none of the equally qualified applicants is excluded from applying for a sought-after position", while in terms of substantial equality of opportunity, it is important that everyone gets the same chance "to qualify at all" (Meyer 2016, page 165). This form of substantial or fair equality of opportunity asserts that "all people should have the same probability of achieving certain goals" (ibid.). In principle, we equate equality of opportunity with substantial equality of opportunity. Recommendations for action in this regard can be found mainly in Chapter 3 in the explanations on career advancement (Module 1), in the remarks on calls for applications (Module 6) or on "gender-related data for quotas" (Module 13).

2. Risks of discrimination and needs of gender-diverse employees

2.1 Structural discrimination against gender-diverse people

The inclusion of gender-diverse people in Germany is fundamentally impaired by **structural and normative discrimination** that occurs at different levels. In the following, we briefly describe how forms of structural discrimination, understood as a lack of recognition and visibility as well as pathologisation and normalisation along the gender binary, are firmly established in the state and in institutions, leading to negative experiences and reduced life chances and opportunities of participation for gender-diverse people. The findings are derived from the analysis of the state of research in German- and English-speaking contexts on discrimination against inter*, trans* and (other) non-binary people in society at large and in employment and occupation.

Lack of recognition and visibility

Structural discrimination in the context of the heteronormative gender binary relates to the impossibility of thinking beyond the naturalised sexual dichotomy, and is therefore inseparable from the fundamental denial and institutional **erasure of the existence of inter*, trans* and (other) non-binary people**. In Germany, trans* people were not recognised by the state until the Transsexuals Act (TSG) was passed in 1981. Legal recognition depends on the (strategic) identification with an opposing gender within the binary gender order and on certain other intersectional conditions such as citizenship (TGEU 2018; Fütty 2019, pages 89–93).[11] For inter* people, a positive legal gender marker was not created until 2018 when the third positive legal gender marker "diverse" was introduced beside "male" and "female". However, the conditions for the change as defined in Section 45b (3) of the Civil Status Act include a medical certificate, which is why it is still not accessible to many gender-diverse people who cannot or refuse to provide proof of a medical indication (TrIQ 2020; Turss 2020; see 2.3.).

---

11 For people without a German passport, procedures apply that are based on those for German nationals but vary depending on the country of origin. For people treated as refugees by the German authorities and certain other groups such as sex workers from Eastern European countries and migrants from non-European countries, access to measures according to the Transsexuals Law is extremely difficult or impossible due to intersectional discrimination (TGEU 2018; Fütty 2019, pages 89–93).

Another manifestation of the lack of recognition in the gender binary is the eradication of **the existences of inter* people**. Parents who are inter* themselves are sometimes advised by doctors not to get pregnant. Prenatal diagnostic tests can be conducted to detect certain inter* variations, which are categorised as chromosomal abnormalities.

Systematic non-recognition and erasure also includes **the transformation of the existing gender diversity into a taboo**: For example, inter* people are advised by physicians to keep their intersexuality a secret. Furthermore, gender diversity is almost entirely absent from curricula and textbooks (Heerdegen & Höhne 2017) or is regularly met with resistance and scandalisation (Bittner 2011; Voss 2014; Gregor 2015; Hechler 2015).

Pathologisation and normalisation along the binary

The existence of gender-diverse people is still discussed within the context of the gender binary and acquires its meaning only within a **pathologising frame** that declares inter*, trans* and (other) non-binary people as problems or anomalies. Legal recognition is also bound to the pathologisation of inter*, trans* and (other) non-binary people. Procedures to change one's legal gender marker according to the Transsexuals Act and according to the Civil Status Act require medical opinions or certified medical diagnoses, and have received criticism from inter* and trans* associations (Dritte Option 2018). This consolidates the authority of legal and medical definitions by which inter* and trans* people are categorised as a (pathological) disorder or deviation from a binary and heteronormative gender model (Höhne & Klein 2019; Fütty 2019). Inter* people are classified in diagnostic lists, such as the International Classification of Diseases (ICD), under the diagnosis "disorders of sex development", and trans* people under the diagnoses "gender dysphoria" or "gender incongruence", formerly "gender identity disorder".[12]

The legally prescribed dependence on medical diagnoses puts gender-diverse people in **a vulnerable position towards physicians and professionals**, who consider harming of the body and psychological integrity of inter* and trans* persons an option. The ethical standards for medical interventions are still fundamentally violated in the case of inter* people. In a recent survey conducted by the European Union Agency for Fundamental Rights (FRA), almost half (46 per cent) of inter* respondents in Germany said that the first interventions to change their physical sex characteristics were carried out by physicians without consent (FRA 2020). During these surgeries, the genitals of inter* children unable to consent are modified so as to correspond to the normative idea of female or male genitals. Except in very rare cases, there is no medical need for these operations. These surgical and hormonal interventions on the bodies of inter* people represent a direct and **violent preservation of a heteronormative binary gender order** (Zehnder 2010; Klöppel 2010 and 2016; Hoenes Januschke & Klöppel 2019; Eckert 2017). The resistance of political and medical institutions against the **demands of inter* advocacy groups to ban these surgeries** to ensure effective protection of human rights of inter people is another expression of the structurally enforced normalisation of the binary gender order (OII 2020).

---

12   The latter is established in the ICD-10, which is expected to remain in effect until 2022 in Germany (German Federal Institute for Drugs and Medical Devices 2020).

The normalising force of the gender binary is also structurally implemented for trans* and (other) non-binary people. The Transsexuals Act allows only a binary change of the legal gender marker, if the person "feels as if they belong to the other gender" (Section 8 of the Transsexuals Act). The Transsexuals Act is therefore based on the gender binary; among other things, it requires a full-time real-life experience as the "opposite sex" along with other binary gender-based criteria. A slight departure is made from the binary gender order, but it is maintained at the same time (de Silva 2019; Fütty 2019): According to the Transsexuals Act, gender can be changed, but people still have to choose between female and male. The social understanding of trans* as "being born in the wrong body" is an expression of this. From this construct of transgender as transsexuality, non-binary and other trans* people are excluded and erased. This also applies to trans* people who, **due to intersectional discrimination, have no access** to what is conventionally referred to as a "transition", for example because of a lack of health insurance and financial resources or a precarious residence permit (Höhne & Klein 2019; Fütty 2019). A recent European survey reveals how poorly legal and medical mechanisms correspond to the realities of the majority of trans* people: 60 per cent of the trans* respondents from Germany have not obtained a change of their legal gender marker and more than half (52 per cent) have not had any gender-related medical surgeries (FRA 2020).

As a result of the pathologization, the gender and gender identity of trans* people is not taken seriously in social interactions:

> *"The problem is that many people still see it as an idiosyncrasy, as a strange idea […] that it is not worth taking into consideration"*
>
> (Interview with inter* trans* advocacy group 2020).

One consequence is **the lack of a socially recognised cultural framework** that would enable an understanding of the experiences of gender-diverse people without resorting to notions of illness or disorder (Butler 1991). This also has an impact on the situation of gender-diverse people within the labour market.

2.2 Discrimination against gender-diverse people in occupation and employment

Under Section 12 (1) of the General Act on Equal Treatment, employers[13] are legally required to **take necessary measures to protect against discrimination** on any of the grounds listed in Section 1 of the General Act on Equal Treatment. This protection also includes preventive measures. As such, employers must acquire in-depth knowledge about the experiences, discrimination and specific living conditions of gender-diverse people. Knowledge about the risks of discrimination is essential for raising awareness and enabling understanding and acceptance. From the results of the studies reviewed in this chapter, we infer where discrimination in employment and occupation must be reduced and prevented. The measures that can be taken to achieve these goals and specific recommendations to this end are described in Chapter 3.

---

13   In the original German text, employers are always referred to in a gender inclusive grammatical form even though it is used with a male ending in the original act, in order to challenge male-dominated language in the law.

State of research and data basis

There is a structural deficit in the German context regarding the systematic and empirical study of the experiences of inter*, trans* and non-binary people concerning discrimination on the labour market. In the following chapter we present the current national and international state of research detailing the **theoretical and empirical insights on the discrimination against gender-diverse people in occupation and employment**, and we have expanded this with the findings from our interviews with inter* and trans* advocacy groups and employers.

The only study available on the situation of inter* employees in Germany in the labour market is an exploratory pilot study (Frohn, Wiens & Buhl 2019). Qualitative interviews were conducted with four inter* experts and/or inter* consultants.[14] The study "Discrimination against trans* people, especially in the workplace" by Franzen & Sauer (2010) provides an initial basis for the analysis of discrimination against trans* people in the workplace, with a comprehensive examination of the national and international state of research. The first empirical survey on the labour situation of trans* employees in Germany was conducted in 2016 and was based on 12 semi-structured interviews with trans* experts and trans* consultants (Frohn & Meinhold 2016). The same research team conducted the study "Out at the Office?! Sexual identity and gender identity, (anti-)discrimination and diversity in the workplace" published in 2017 (Frohn, Meinhold & Schmidt 2017). The latter is the largest survey on the labour situation of trans* people in Germany, with 290 participants (114 trans* women, 67 trans* men and 83 non-binary people). The study with the largest sample, where data on income and employment of trans* and non-binary people was collected, is the study "A third legal gender marker for all?" with 1,533 participants (Hoenes, Sauer & Fütty 2019). In addition, the "Queer Works" study, which examined the situation of queer people on the Berlin labour market (Orth 2018), is also worth mentioning. The interviews we conducted with trans* and inter* organisations for this study provided further perspectives into the discrimination experienced by gender-diverse people in occupation and employment, which we used for the following analysis.

Due to the lack of empirical studies discrimination against gender-diverse people at the labour market in Germany, we expanded and **contextualised the available research with European and US studies**. We would like to specifically mention the data from the study on discrimination against LGBTI people conducted by the European Union Agency for Fundamental Rights (FRA 2020), the Transgender Eurostudy (Whittle et al. 2008), the study "Being Trans in the European Union: comparative analysis of EU LGBT survey data" (FRA 2014) and the reports from the "U.S. National Transgender Survey" of the National Center for Transgender Equality (Grant et al. 2011; James et al. 2016) and also the qualitative study "Gender Ambiguity in the Workplace: Transgender and Gender-Diverse Discrimination" (Fogarty & Zheng 2018).

The statistics and data from the quantitative studies can be used to draw conclusions on the risks of discrimination; however, they **cannot fully reflect** the extent and intersectionality of discrimination against gender-diverse people. It is also important to keep in mind that many gender-diverse people have a **deep distrust of research**, which is often not conducted with a sensitive attitude towards discrimination due to the historical entanglement of scientific institutions with pathologisation and abjection. In addition, it needs to be taken into account that the samples of the studies overrepresent the segment of gender-diverse people who are engaged in communities, well connected and often well educated. People who are particularly marginalised and more excluded from social participation are not equally represented.

---

14   Based on this, a larger-scale study will be conducted in 2020 by the same research team, but the results will not be available to us in time for the writing of this study.

Discrimination in employment and occupation

Before entering the workforce, inter*, trans* and (other) non-binary people are often subject to structural and institutionalised **discrimination in their education** and vocational training. This leads to **unequal educational opportunities** (Hoenes, Sauer & Fütty 2019; Fütty 2019; Whittle et al. 2008). Discrimination on a daily basis, as well as bullying and violence against gender-diverse children and adolescents in school and during training programmes often result in interruptions in their education and even prolonged or re-peated hospital stays. Lengthy and burdensome legal and medical procedures also delay or interrupt train-ing programmes, such as the legal and psychological evaluation process stipulated in the Transsexuals Act (Bora 2012; Fuchs et al. 2012). These disadvantages occur throughout the educational and training phase in life and often create gaps in an individual's CV and education history or disrupt apprenticeships and voca-tional training. Now and again, recruitment officers fail to understand this, leading to an endless cycle of negative assumptions, disadvantages and discrimination during the job search. As a result, gender-diverse people face disadvantages in application and recruitment procedures. Gender-diverse people are also dis-proportionately affected by long-term unemployment or holding precarious or irregular jobs in the low-wage sector (Hoenes, Sauer & Fütty 2019; Fütty 2019).

Minority stress and visibility

The structural risks of discrimination against gender-diverse people lead to **overarching minority stress** (Meyer 2003): Due to day-to-day experiences of discrimination, gender-diverse people also anticipate dis-advantages and negative consequences in working life if they are seen as inter*, trans* or non-binary. This fear of misconduct, discrimination and violence, along with the feeling of subjection, vulnerability and defenceless, constitutes a burden in itself, which gender-diverse people are constantly forced to carry throughout their working lives.

A critical aspect of minority stress in the workplace is the question of **visibility**, that is, to what extent people are able or willing to comply with the normative notions of femininity or masculinity. Gen-der-diverse people who are not clearly recognised or acknowledged by others as female or male and are visibly gender-diverse are subject to a higher degree of structural and everyday discrimination. For many gender-diverse people, there is no way to decide for themselves whether, how and with whom they want to be "out" (Orth 2018, page 27). **The option of choosing when to out oneself** is limited to those gen-der-diverse people who clearly "conform" to the female or male norms – that is, who are clearly recognised by others as women* or men* and therefore pass as female or male (Höhne 2017; Fütty 2010). "Permanent gender ambiguity […] calls heteronormative thinking into question, which leads to a higher level of confu-sion in the environment, is perceived by some people as threatening and increases the risk of violence" (Frohn & Meinhold 2016, page 4; see also Frohn, Wiens & Buhl 2019; Fogarty & Zheng 2018; Ozturk & Tatli 2016). Gender-diverse people who succeed in passing as female or male risk being **outed against their will** in many job search situations and in the workplace; this can occur if a name and gender are indicated in reports, letters of reference, social security cards, certificates of good conduct, birth certificates, health or pension insurance or other documents that do not correspond to the individual's self-determined gender identity or gender (Fütty 2019). Even random encounters at work with people who know a gender-diverse person from school or vocational training by their former name, or unwanted encounters in the toilets or changing rooms, can result in outings in the workplace with devastating consequences.

All inter* experts surveyed agreed on the significance of the **immediate visibility of a person's inter* status**, which correlates with discriminatory reactions of superiors, employees and customers. In terms of discrimination and **negative reactions**, visible or outed inter* people report feeling confused, overwhelmed and insecure, and being asked voyeuristic questions, or being exoticised and/or pitied (Frohn, Wiens & Buhl 2019, pages 6–7). For example, inter* experts mention a fear of unprofessional conduct or fear of bullying, to such an extent that inter* people assume they would have to quit if they positioned themselves as inter* (ibid.). Also for trans* and (other) non-binary people, the visible non-conformity with the binary norm is directly related to more frequent experiences of discrimination and minority stress (Miller & Grollman 2015).

Job search, application and hiring

The latest study by the European Union Agency for Fundamental Rights (FRA 2020) reveals that almost **half of inter* and trans* people in Germany experienced discrimination while they were looking for jobs or while working last year**: 47 per cent of inter* respondents and 45 per cent of trans* respondents stated that they had experienced discrimination during their job search or within an employment relationship (ibid.). This means that Germany is above the EU average of 39 per cent among inter* respondents and 40 per cent of trans* respondents. In addition, the data for Germany revealed a higher risk of discrimination against trans* women: 46 per cent of trans* women, compared with 37 per cent of trans* men and 38 per cent of inter* respondents, said they had experienced discrimination in the past 12 months when looking for a job (ibid.). These exemplary figures illustrate the need to take the existence of structural and institutional discrimination against gender-diverse people on the labour market seriously, especially when it comes to the various ways non-normative feminine characteristics are embodied.

In terms of the **job application process**, the experience of gender-diverse people who do not identify as female or male is that their existence is not structurally recognised or taken into consideration by others – for example, when filling out forms in which only the options 'female' and 'male' are displayed. This leads them to anticipate that they are not a candidate for a particular job (Frohn, Wiens & Buhl 2019, page 6). In a study on the specifics of the work situation of trans* people, 9 out of 12 of the surveyed trans* experts mentioned enormous difficulties in applying for jobs: for example, trans* applicants often experience discrimination when they are "exposed as a trans* person due to documentation or photos that are (still) incongruent; as a result, recruitment officers become confused and shift their focus away from the candidate's qualifications and towards their personal history as a trans* person" (Frohn & Meinhold 2016, pages 2-3). In such cases, **prejudices against gender-diverse applicants** often emerge and as a result, they are not invited for an interview or, if they are invited, they are ultimately not hired for the job despite having the same qualifications (Orth 2018). In an experimental Belgian study on recruitment decisions related to trans* women, specific prejudices were confirmed: Employers decided against hiring trans* women due to the so-called "health stigma" (assumptions regarding prolonged absences due to medical treatment) and the fear that colleagues would react negatively (Van Borm & Baert 2018). Due to the reactions they face as individuals who do not conform to the gender binary, gender-diverse people generally perceive job interviews as extremely stressful. Given the prejudices of employers, certain job opportunities are considered to be out of reach: "People whose appearance and name and gender don't match on the ID card face a huge barrier to the labour market" (Orth 2018, page 27; see also Van Borm & Baert 2018, page 22; Ozturk & Tatli 2016). Gender-diverse people from the UK also report inappropriate conduct during job interviews, such as requests for medical information (Totaljobs 2016, page 15).

The increased discrimination against trans* and non-binary candidates in job application processes **is reflected in the perception of the respondents**: One in five trans* and non-binary respondents (20.3 per cent) in the "Out at the Office?!" study assumes that they were not hired for a particular job due to their gender identity. More than a third of trans* and non-binary respondents (38 per cent) in the "Queer Works" study make the same assumption (Frohn, Meinhold & Schmidt 2017, page 50; Orth 2018, page 20). A study from Austria also shows that more than eight out of ten trans* respondents (88 per cent) found it difficult to find a job as a trans* person (Frketić & Baumgartinger 2008, page 45).

To make matters worse, employees at the job centre and employment services are not adequately trained for this specific situation and with regard to the risks of discrimination of gender-diverse people: "There is a lack of understanding of the specific experiences of these groups, especially when a person has become unemployed due to discrimination" (Orth 2018, page 28).

Career development

Prejudice and discrimination do not end after the hiring decision, but instead have a negative impact on the overall **working life and career development** of trans* and non-binary people, as the state of research shows.[15] A number of trans* and non-binary respondents claim that a transfer (6.2 per cent) or dismissal (8.3 per cent) were directly related to their gender identity (Frohn, Meinhold & Schmidt 2017, page 50). In the US, findings reveal that more than a quarter of trans* respondents in the "U.S. Transgender Survey" (27 per cent) reported having lost their jobs due to being trans* (James et al. 2016, page 151). This affects trans* women in particular. After the outing or transition, they are often forced to change sectors and end up losing their accumulated experience and social capital by putting their personal safety and acceptance before their interests or skills when choosing a job (Ozturk & Tatli 2016).

Moreover, trans* and non-binary employees are frequently overlooked when it comes to **promotions** or career development opportunities: "I'm not given any of the headline interesting projects anymore; my opinion is now generally worthless (overnight!); I am always passively and sometimes actively excluded from all social gatherings by my team; despite previous team leader/management experience I wasn't told of a team leader role becoming available — they announced the vacancy and appointed in a week I was on holiday" (Totaljobs 2016, page 15; see also Mizock et al. 2017). In addition, 12.1 per cent of trans* and non-binary respondents indicated that they had experienced discrimination in terms of salary; 10.7 per cent in terms of **continuing education** and 23.1 per cent in terms of **promotion and professional development** (Frohn, Meinhold & Schmidt 2017, page 50). In the "Being transgender in Belgium" study, 22 per cent of the 310 trans* respondents said they had been excluded from training and 38 per cent were not considered for promotions (Motmans et al. 2010, page 121).

---

15   In terms of inter* persons, there is no available research on discrimination in relation to career development; therefore, no specific statements can be made.

Unemployment and income

The structural and institutional discrimination described above is manifested in the **high unemployment rate** of gender-diverse people. Extrapolated from the "Out at the Office?!" study (Frohn, Meinhold & Schmidt 2017, page 25) and the report of the German Institute for Economic Research (DIW) based on representative data from the socio-economic panel (Kroh et al. 2017), the unemployment rate is 52.7 per cent for trans* and non-binary people.[16] Similar figures were cited in the "Trans at work" project (LADS, no date available). Based on this, we can assume that inter* people in Germany also have a very high unemployment rate, even though the relevant data have not yet been collected.

Findings from international studies also indicate an above-average unemployment rate among gender-diverse people. According to the 2015 "U.S. Transgender Survey", the unemployment rate of trans* men in the US is 15 per cent, which is three times higher than the average. It also increases with "perceived gender incongruence" (Leppel 2016, page 7). Data from the "U.S. Transgender Survey" also reveal that the **unemployment rate of trans* people increases with the effects of racism**. Unemployment rates were 20 per cent for black trans* people, 21 per cent for Latinx[17] and 35 per cent for trans* people who identified as 'Middle Eastern'. These figures are significantly higher than the unemployment rate among white trans* people, which was 12 per cent, according to the survey (James et al. 2016, page 141). There are no intersectional studies available for Germany. However, we can assume that multiple forms of discrimination – for example, due to racism and gender – is also reflected in higher unemployment in the German labour market (Fütty 2019, pages 118–126; LesMigraS 2012).

Data from the few available studies on the **income level** of trans* and non-binary people show that they are over-represented in the lower income brackets. According to the German Federal Statistical Office, the threshold for poverty risk in 2017 was 1,096 euros per month for adults living alone, which at 16.1 per cent affects almost one in six people in the total population (Federal Statistical Office 2018). In the German study with the largest sample of trans* and non-binary people, a total of 44.1 per cent of respondents had a monthly net income of less than 1,000 euros (Hoenes, Sauer & Fütty 2019, page 15). In the "Out at the Office?!" study, 26.2 per cent of trans* and non-binary respondents had an income below 1,000 euros (Frohn, Meinhold & Schmidt 2017, page 26).[18] If only the non-binary people are considered, the proportion increases to 39.8 per cent. Comparable figures have been reported in the US, where nearly one in three trans* people live in poverty (29 per cent), or twice the rate of the general population (James et al. 2016, page 141). This puts trans* and non-binary people at an above-average risk of poverty in Germany.

---

16   According to the analysis of the German Institute for Economic Research (Kroh et al. 2017), unemployment among cis dyadic lesbian, gay and bisexual respondents was nine per cent, while unemployment among the (heterosexual) total population was six per cent. In the "Out at the Office?!" study, unemployment among trans* respondents was 5.9 times higher than among cis dyadic lesbian, gay and bisexual respondents (4.1 per cent to 0.7 per cent). If this factor of 5.9 is transferred to the representative data of the report of the German Institute for Economic Research, the unemployment rate for trans* people comes to 52.7 per cent.

17   Latinx is an affirmative gender-neutral self-designation for people who migrated, or whose families migrated, from various South American countries or were forced to flee during military dictatorships or other hardships, for example. Latinx suggests an affirmative reference to South American cultural elements as part of one's own cultural identity (especially in the US context, but also beyond).

18   It should be noted in this case that the sample from the study is better situated overall because the respondents were recruited via professional organisations.

Harassment and discrimination in the workplace

Furthermore, gender-diverse people are subject to a particularly **high level of discrimination** within the social context in the workplace, which leads to minority stress and its long-term consequences. This involves *"the entire spectrum of harassment and discrimination in the workplace: from [...] jokes, comments, questions about one's private life or intimate details"* (interview with inter* trans* advocacy group 2020). Gender-diverse people also experience **sexual harassment**, especially those *"who do not conform to a heteronormative standard. [...] Sexual harassment is more likely to be used as a way to punish a person whose appearance is gender nonconforming"* (interview with inter* trans* advocacy group 2020).

The widespread experience of discrimination, especially in the form of sexualised misconduct, is confirmed in the results of the "Out at the Office?!" study. 42.8 per cent of the trans* and non-binary respondents were the target of unpleasant sexual references, while another 15.8 per cent were the victims of sexual harassment and abuse. Nearly one third (29.3 per cent) were bullied or psychologically terrorised by colleagues. The same share of people (29.3 per cent) were derided or insulted by other employees at work. Almost a quarter (of the trans* and non-binary respondents) (23.2 per cent) had been threatened, blackmailed or forcibly outed. A total of 13.7 per cent of the respondents suffered physical violence and aggression (Frohn, Meinhold & Schmidt 2017, page 51).

In addition, trans* and non-binary people at work are **socially and professionally excluded by their colleagues**, as the "Out at the Office?!" study shows. Nearly half (46.9 per cent) state that they are not acknowledged in their gender identity or as a person; around four out of ten (39.1 per cent) state that they were shunned, social excluded and isolated and that they were no longer taken seriously. Almost one third (31.9 per cent) were excluded from communication. Among the discriminatory behaviours described in studies, trans* and non-binary people report receiving pointless work assignments, inappropriate criticism and poor evaluations (29.1 per cent), others hindering their work or blocking their career development (27.2 per cent), and being denied contact with customers (15.5 per cent) (ibid.).

Also, behaviours that violate one's personal integrity, such as exoticising a person or ascribing an imaginary otherness to them, which is used as a pretext for clichéd jokes and intimate questions (Orth 2018, page 29), represent widespread discriminatory behaviour toward gender-diverse people. In the "Queer Works" study, 54 per cent of trans* and non-binary people experienced unpleasant and intrusive questioning about their private life or verbal transgressions (Orth 2018, page 24) such as gossiping, spreading rumours and lies, making jokes and ridiculing (Frohn, Meinhold & Schmidt 2017, page 51).

International studies confirm the massive level of discrimination experienced by various people in the workplace. More than half of those surveyed in a Scottish study (53 per cent) and an Austrian study (59 per cent) experienced **transphobic harassment at work** (Scottish Transgender Alliance 2008, page 13; Frketić & Baumgartinger 2008, page 32). Various European studies show that many trans* people quit their jobs on their own accord out of fear of discrimination: between 13 and 23 per cent in the UK (Scottish Transgender Alliance 2008, page 13 and Whittle, Turner & Al-Alami 2007, page 37); 26 per cent in Belgium (Motmans, de Biolley & Debunne 2010, page 123) and 29 per cent in Austria (Frketić & Baumgartinger 2008, page 42).

Dealing with gender identity in the workplace

As described earlier, visibility as an inter*, trans* and/or non-binary person increases the risk of discrimination against gender-diverse people. In the following, we examine this aspect in connection with existing employment relationships, even though there is already a **correlation between visibility and the risk of discrimination** while in training and searching for a job.

Being visible as binary nonconforming or as gender-diverse is a concern for a large proportion of gender-diverse people. According to the "Out at the Office?!" study, 42.7 per cent of trans* women, 36.6 per cent of non-binary people and 35.9 per cent of trans* men reported that they are perceived by others in the workplace as deviating from cis gender norms or as ambiguous (Frohn, Meinhold & Schmidt 2017, page 30). People who are visibly gender nonconforming must reckon with a particular **vulnerability, a constant sense of insecurity and increased stress due to the anticipation of discrimination** in the workplace. 42.5 per cent of trans* and non-binary respondents slightly or completely agree with the statement: "I am familiar with situations in the workplace in which I was afraid of being recognised as trans*" (ibid., page 28). This can tie in to a negative feeling that people are being denied their gender identity in the workplace.

Some gender-diverse people go through phases associated with gender-related external changes as a result of measures such as surgery or hormones, but also changes in lifestyle, hairstyle, etc. This form of **binary non-conformity due to noticeable changes** is associated with a high risk of discrimination and stress (Fogarty & Zheng 2018; Frohn & Meinhold 2016). Many trans* people decide to leave the workplace at such times and, due to experiences and fears of discrimination, only seek a new job after some time has passed (Motmans, de Biolley & Debunne 2010; Frketić & Baumgartinger 2008).

According to the "Out at the office?!" study, 70.1 per cent of trans* men and 80.6 per cent of trans* women adopt certain behaviours, clothing and/or a voice associated with the gender binary in order to avoid gender ambiguity and related discrimination. 46.1 per cent often feel the necessity to conceal their gender identity (Frohn, Meinhold & Schmidt 2017, pages 28–30). Only 16.2 per cent of trans* and non-binary respondents said that they are open with their gender identity with the majority or all of their colleagues. The share of people in management positions who are open about their gender identity is 20 per cent (ibid., pages 34–35). In the interviews, people emphasised *"that doing gender[19] causes great pressure in the workplace, [...] especially among people who do not currently fit or will not fit over the long term into one of these binary gender roles"* (interview with inter* trans* advocacy group 2020). **Performing gender unambiguity** is one **coping strategy** that gender-diverse people use to protect themselves from discrimination, but it is not available to all gender-diverse people.

---

19   The term "doing gender" comes from gender research (West & Zimmerman 1987) and refers to "constructing and learning gender". It describes how people are classified according to gender categories. This occurs in everyday interactions through the way people dress and style themselves, behave, communicate, etc. At the same time, people who do not conform to established notions of masculinity or femininity are penalised; there is therefore a certain pressure to adhere to these standards in order to avoid negative consequences.

Of the trans* and non-binary persons who are open with their gender identity in the workplace, more than eight out of ten indicate that they experience predominantly positive or exclusively positive reactions from managers (86.5 per cent) and colleagues (85.7 per cent) (Frohn, Meinhold & Schmidt 2017, page 47). In these figures, the authors of the study perceive a **discrepancy** between anticipated negative expectations regarding a possible outing on the one hand and positive experiences among "outed" trans* and non-binary people on the other (ibid., page 49). Taking into account the experience of all trans* and non-binary people surveyed and the overwhelmingly prevalent experiences of discrimination, the low numbers of "outed" trans* and non-binary respondents would appear to justify the anticipated discrimination and structural uncertainty. The European study "Being trans in the EU" follows a similar interpretation of the data, arguing that "the low numbers of trans respondents who are generally open at work (16 per cent) indicate that many trans persons manage their visibility consciously and in accordance with how they perceive their work environment" (FRA 2014, page 31). Overall, when it comes to being open with one's self-determined gender identity, not all gender-diverse people have the choice of deciding whether they want to be "out" or not, in particular if they do not pass as binary in their self-determined or ascribed gender. This is often disregarded in the context of visibility or coming out as a deliberate and voluntary decision of an inter*, trans* or non-binary person.

Names and pronouns

A common experience of gender-diverse people in the workplace is that colleagues and superiors fail to **acknowledge their preferred name and pronouns**. In a US American survey, 45 per cent of respondents stated that they were intentionally and repeatedly addressed with the wrong pronouns (Grant et al. 2011, page 56). This experience is a form of microaggression that above all affects non-binary people and those who do not correspond to binary norms in terms of appearance (Pitcher 2017). It can be seen from the interviews with inter* trans* interest groups that the preferred names and pronouns of gender-diverse people are not taken seriously and dismissed. Others often outright refuse to use non-binary pronouns or comply with a request to be addressed without pronouns.

Use of toilets, showers and changing rooms

The use of binary gender-segregated toilets, showers and changing rooms represents a specific risk of discrimination for gender-diverse people and a highly stressful situation in the workplace. Inter* experts explain that these spaces "lead to massive prejudice against inter* persons because they cause physicality to become visible" and because "a space of belonging simply is missing due to the binary norm" (Frohn, Vienna & Buhl 2019, page 6). For many trans* and non-binary individuals, **gender-segregated toilets represent a key place of discrimination and fear** (Hoenes, Sauer & Fütty 2019, page 30; Frketić & Baumgartinger 2008, page 50; Whittle et al. 2007, page 35). In a US survey, one in four trans* people (24 per cent) reported that their presence in a toilet facility was scrutinised. One in eight trans* people (12 per cent) were verbally harassed, personally assaulted or sexually abused; nearly one in ten trans* people (nine per cent) were simply refused or prevented access to the toilet (James et al. 2016, page 224).

The negative experiences, the fear of violence and the feeling of insecurity in binary gender-segregated toilets lead to **stressful avoidance behaviour**, which can also have negative health effects. More than half of the trans* respondents (59 per cent) in the US study avoided using a public toilet out of fear. Nearly one third (32 per cent) strictly limited their intake of fluids and food for many hours to avoid having to use the toilet (James et al. 2016, page 229). This also leads to **health problems**: eight per cent of respondents had a urinary tract infection, kidney infection or other kidney-related problem in the past year as a result of having to avoid toilets (ibid.).

Work clothes

A specific form of discrimination exists when gender-diverse people are not permitted to dress and present themselves according to their self-determined gender identity (for example, through the use of make-up), or when their appearance and conduct elicit negative comments or other noticeable reactions. A Dutch study found that 75 to 85 per cent[20] of respondents expect mainly negative reactions from their colleagues when trans* women who have not undergone surgical or hormonal measures dress and style themselves in a feminine way (Vennix 2010, page 67). This form of discrimination can also affect some cis dyadic persons, but to a lesser degree, if their appearance does not fall within the normative notions of a "masculine" and "feminine" look:

> *"For example, I have long hair, I like to wear flashing shoes, sometimes a cap, sometimes purple and pink, but that alone attracts attention and I notice that it confuses people and they find it strange [...] I no longer wear the clothes that I want, that make me feel comfortable"*
>
> (Interview with large company 2020).

However, this form of discrimination has a specific effect on gender-diverse people because the enforcement of **clothing regulations in the workplace** denies them their identity. Interview subjects reported that trans* and inter* people have been asked by their superiors to change the way they look or they would be barred from attending prestigious events. International studies confirm that these are not isolated cases. In a US study, 32 per cent of respondents said they were forced to work in the gender role assigned to them at birth in order to keep their jobs (Grant et al. 2011, page 56).

Health

There is a connection between negative assumptions about an individual's health status and structural discrimination against gender-diverse people in occupation and employment. A study by Van Borm and Baert (2018) shows that **negative assumptions about the health status, resilience and increased work absence** of trans* women are reasons to exclude them from recruitment procedures. Not only trans* people, but inter* and other non-binary people are also aware of this. If they require gender-related medical interventions involving longer treatment times, they feel pressured to conceal this fact in order to avoid discrimination and, if necessary, being outed. In reference to inter* people, one interview subject stated:

20　The range from this study is based on very detailed information regarding the anticipated reactions to different aspects of one's appearance, such as wearing mascara, skirts, tights or high-heeled shoes.

"This is just a difficult story, because inter* people naturally don't dare and are afraid to take sick leave or maybe even use their annual leave for surgery"

(Interview with inter* trans* advocacy group 2020).

In some cases, there is a risk of direct negative professional consequences, including dismissal:

"In any case, this is an issue that comes up over and over again. For example, people who have had surgery and were on sick leave for a longer period of time are terminated – not specifically for that reason, because it's against the law, but in the end it is actually due to this longer absence from work"

(Interview with inter* trans* advocacy group 2020).

Another burden associated with **occupational healthcare** is the risk of **retraumatisation through medical exams** performed on gender-diverse people:

"Especially among inter* people but also trans* people, we are now seeing an incredible reluctance to go to the doctor. They have also potentially been traumatised in the past by medical facilities. Then there is the risk that the company medical exam alone is already grounds for rejection"

(Interview with inter* trans* advocacy group 2020).

Dealing with discrimination

Discrimination incidents are rarely reported by gender-diverse people or victims of discrimination on the whole. This has partly to do with the fact that gender-diverse people experience the phenomenon widely known as a guilt trip: It is not the discriminatory behaviour against the gender-diverse person that is perceived as the problem, but the complaint itself or the fact that the gender-diverse person is defending themselves against discrimination that is turned into a problem:

"People lose sight of the fact that the situation is only very rarely caused by the person who brings it up. [...] I see this very often, that the person is often the one who needs peace and quiet to work, just like everyone else"

(Interview with inter* trans* advocacy group 2020).

We know from interviews that gender-diverse people tend to report discrimination incidents after the fact:

"From what we have observed, people often swallow it, try to change jobs or offices and get off to a fresh start in the new office. And after two or three years they come back and say 'by the way, this and that happened at the office.' To get it off their chest at that moment, because it is still bothering them"

(interview with LGBTI public administration office 2020).[21]

---

21 This pattern of only being able to come to terms with and process experiences of discrimination after some time has already passed applies to many victims of discrimination in general (see ADS 2017, pages 324–335).

In the FRA study, 90 per cent of trans* respondents and 83 per cent of inter* respondents in Germany stated they did not report the most recent incident of discrimination. Physical or sexual assaults were also not reported by 80 per cent of trans* respondents and 74 per cent of inter* respondents (FRA 2020). The most common reasons for not reporting the most recent incident of discrimination were that "it would not change anything" (40 per cent trans* and 36 per cent inter* respondents) and that "it happens all the time" (38 per cent trans* and 32 per cent inter* respondents). 33 per cent of inter* respondents also claimed not to know how or where to report the incident. More than a quarter of the inter* and trans* respondents also cited fear of intimidation by the offender, lack of trust in the people in charge and fear that it would not be taken seriously as reasons not to report the incident (ibid.).

2.3   Legal framework for protecting gender-diverse employees against discrimination

In this subsection, we look at the **legal framework conditions** that are relevant for employers with regard to gender diversity and inclusion. We focus on current developments, mainly on the decision of the German Federal Constitutional Court (BVerfG) of 2017 (1 BvR 2019/16), as this decision of Germany's highest court is binding for the legislative bodies as well as the courts (in accordance with the corresponding legal wording in Section 31 (1) of the Federal Constitutional Court Act (BVerfGG)). This landmark decision clearly indicates a **need for change** with regard to gender diversity and inclusion.[22] We refer to other standards in which gender plays a role, such as the German Workplace Ordinance (ArbStättV), the General Data Protection Regulation (GDPR) and the statutory requirements for the use of official data in the corresponding fields of action in Chapter 3 of this study.

When **"diverse" was introduced as a third positive legal gender marker** by Section 45b and Section 22 (3) of the Civil Status Act, the legislative bodies created the basis in 2018 for the state and society to recognise and ensure the equal treatment of gender-diverse people with a significantly higher degree of accountability. As a representative of an inter* organisation remarked:

> *"Gender-diverse people do not have to sue for their legal rights. These rights exist. Everyone should be made aware of this. [...] People are unaware of the legal consequences for their daily work"*
> (Interview with inter* trans* advocacy group 2020).

The right to inclusion of gender-diverse people is no longer "just" optional, but is legally required (as a collective responsibility) and must also be implemented in the workplace.

---

22   Previous jurisprudence and the legal framework can found in the study "Discrimination against trans* people, especially in the workplace" by Franzen and Sauer (2010) and other works..

Omission of gender in registration

As far back as 2013, another option for gender registration was introduced in Germany **in addition to female or male**, which was to **leave the legal gender marker blank**. At the time of the sixth country report of the Federal Republic of Germany on the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the organisation Intersexuelle Menschen e. V. published a shadow report in 2008 (Intersexuelle Menschen e. V. 2008). The German Ethics Council was then instructed to draft an opinion. It determined that **the human rights of inter* people in Germany are being violated** and that both the medical treatment of inter* people and their access to legal recognition in civil status law must therefore change. The Ethics Council recommended that, in addition to the registration as female or male, a third legal gender marker option must be available (German Ethics Council 2012).

In response to this, the **German Civil Status Act (PStG) was revised in 2013** with the addition of the following amendment: "If the child cannot be assigned to either the female or the male gender, the legal gender marker shall be entered in the birth register without such an indication." (Section 22 (3) of the Civil Status Act in the 2013 version). This option is still available today, even though many people are unaware of it.

Introduction of the "diverse" legal gender marker

In 2017, the German Federal Constitutional Court ruled that the Civil Status Act, as amended at the time, **was unconstitutional** because it **violated the general personal rights** (Article 2 (1) in conjunction with Article 1 (1) of the German Basic Law – GG) and **the principle of non-discrimination** (Article 3 (3) sentence 1 of the German Basic Law). According to the German Federal Constitutional Court, "the general right of personality also protects the gender identity of persons who can be assigned neither the male nor the female gender". The principle of non-discrimination on the basis of gender applies "not only to men and women, but also to people who do not assign themselves to either of these categories in their gender identity" (Decision of the German Federal Constitutional Court of 10 October 2017 – 1 BvR2019/16).

This decision supports the protection of discrimination against gender-diverse people as **a legal and political mandate**. As such, the legislator was offered several options for remedying the disadvantage of those affected. This meant that the legislator could "generally dispense with a gender registration under civil status law. However, it may instead also provide the persons in question with the option of choosing a single positive designation for a gender that is neither male nor female, in addition to the existing option of not indicating a gender (Section 22 (3) of the Civil Status Act)" (German Federal Constitutional Court decision of 10 October 2017 – 1 BvR 2019/16, juris marg. 65).

In 2018, the civil status law was expanded with the introduction of "diverse" as a third positive gender designation. On the one hand, the amendment to the Civil Status Act applies to **newborns** according to Section 22 (3) of the Civil Status Act: "If the child cannot be assigned to either the female or the male gender, the legal gender marker can also be entered in the birth register without such an indication or with the indication "diverse." However, there is no requirement to do so.[23] On the other hand, the Civil Status Act provides the **option for adults to change their status**: According to Section 45b of the Civil Status Act, persons with "variants of sexual development" may change their gender registration to male, female or diverse, or leave it out ("none"), upon presentation of a medical certificate.

---

23 The "must" regulation from the previous version of Section 22 (3) of the Civil Status Act was repealed in 2013 and replaced by a "can" regulation. The 2013 regulation provided that, if children cannot be categorised as female or male, they must be registered without a gender registration. However, inter* associations were concerned that the mandatory regulation would only increase the likelihood of forced surgery on inter* children, since the consequences of leaving the gender blank were still completely unclear.

Employers need to be aware of the **four current legal options for gender registration in Germany**: the options "male" and "female", the option to leave the legal gender marker blank and the option "diverse". Employers must keep in mind that "diverse" and "none" are not the same. The equal rights of people with no gender registration or with a blank one must also be recognised and respected.

The Civil Status Act uses the medically ambiguous designation "**persons with variants of sexual development**" to refer to those registered under "diverse". These are people who "cannot be assigned to the female or the male gender" (Bundestag document 19/4669). In this wording, the legislator mainly denotes inter* persons – however, without offering a precise definition of "variants of sexual development". This **narrow understanding** refers to the physical characteristics of intersex people, a view currently represented by the German Federal Ministry of the Interior and the Federal Court of Justice: "The scope of application of Sections 45b 22 (3) of the Civil Status Act is limited to persons who cannot physically be assigned to the female or the male sex. They do not apply to persons who only identify intersex" (Federal Ministry of the Interior 2019; Federal Court of Justice decision of 22 April 2020 – XII ZB 383/19). From a constitutional perspective, however, the term and the narrow physical interpretation contradict the judgement of the Federal Constitutional Court. According to legal experts, **a constitutional interpretation** means that gender "[cannot] be understood in a narrow and purely somatic sense. […] Self-identification must always be taken into account, so gender in the Federal Constitutional Court's understanding of the term also has a psychosocial element as 'gender identity' (Mangold, Markwald & Röhner 2019, page 7). Inter* associations have also criticised the legal framework, given that Section 45b of the Civil Status Act also stipulates that an expert opinion is required, and as such the medical prerogative of interpretation over the (inter*) body is upheld. What is required instead is a combination of a **right to self-determination** with regard to physical interventions and the right to a legal gender marker which also provides for a **positive third gender or no gender registration for all, without having to provide medical certificates or expert opinions** (TrIQ, no date available).

Legal regulations on trans* people and the disclosure ban

In addition to the Civil Status Act, the so-called **Transsexuals Act (TSG)**, which regulates the legal recognition of trans* people in Germany, is relevant within the employment context. The Transsexuals Act was adopted in 1981 and since then, selective changes have been prompted by court rulings. The Transsexuals Act regulates the option for trans* people to change their first name and legal gender marker, but only allows registration as female or male. This is based on the outdated[24] medical/psychiatric diagnosis of "transsexuality" or another psychological opinion. As early as 2012, a federal working group called for the Transsexuals Act to be reformed (TSG reform 2012). This issue was brought up again within the Inter & Transsexuality interministerial working group as a clear call for action and the first drafts for a self-determination law were developed (Adamietz & Bager 2016). In addition to numerous activist efforts (Bundesverband Trans 2016), various parties are currently making another attempt to **replace the Transsexuals Act with a right of self-determination.**[25]

24　In the current editions of the ICD and DSM, "transsexuality" is not included as a diagnosis. Instead, it is described in ICD-11 as gender incongruence and in DSM-5 as gender dysphoria, not considered a disease and, unlike "transsexuality", not limited to a reversal of gender identity along a binary logic of woman/man. In Germany, however, ICD-10 will still be in use until at least 2022 (Federal Institute for Drugs and Medical Devices 2020). Furthermore, it is impossible to determine whether physicians actually change their practices based on the formal change of the criteria.

25　In June 2020, the FDP parliamentary group submitted a draft law in support of gender self-determination (Bundestag document 19/20048, https://dip21.bundestag.de/dip21/btd/19/200/1920048.pdf) and the green party Bündnis 90/Die Grünen submitted a draft law to repeal the Transsexual Act and introduce the Self-Determination Act (Bundestag document 19/19755, https://dip21.bundestag.de/dip21/btd/19/197/1919755.pdf).

Another relevant regulation for employers is Section 5 of the Transsexuals Act, the disclosure ban. It stipulates that "the first names given at the time of the decision shall not be disclosed or researched without the consent of the applicant, unless required due to special reasons of public interest or a legal interest can be substantiated". This may also involve legal data protection requirements for employers, which are addressed in subsection 3.3, on "Handling gender-related data".

Gender diversity in gender equality and anti-discrimination law

The introduction of the "diverse" gender option **has consequences for all legal norms relating to the gender attribute**. Overall, changes need to be made to federal and state equality laws, in the Appointments to Federal Bodies Act (Bundesgremienbesetzungsgesetz), in the Act to Promote Transparency in Wage Structures (Entgelttransparenzgesetz) and in other laws that aim to achieve equality between women* and men* in public service law and private employers (Dutta & Fornasier 2020). In this study, we are aligned with legal experts who have concluded that **it should be constitutionally required to take gender-diverse people into account in equality laws and support measures**: "Support for women alone would be justified if women experienced structural discrimination compared to men and non-binary people. However, there is no apparent structural discrimination against women as opposed to non-binary people. Non-binary people and women should therefore be equally included in active equality measures" (Kasten 2019, pages 22–23; see also Plett 2019; Mangold, Markwald & Röhner 2019).

Furthermore, the legal framework for granting protection against discrimination in employment and occupation for employers includes the following specific standards:

- Respect of the general right of personality (Article 2 (1), in conjunction with Article 1 (1) of the German Basic Law), the resulting right to informational self-determination and prohibition of discrimination (Article 3 (3) sentence 1 of the German Basic Law) **in the Basic Law**,

- The data protection regulations of the German Federal Data Protection Act or the GDPR, the respect of the human rights of all employees according to **the European Convention on Human Rights**,

- Working conditions which respect the health, safety and dignity of all employees in accordance with Article 31 (1) **of the EU Charter of Fundamental Rights**,

- The employer's duty to provide care for all employees as stipulated in **the civil code** in accordance with Sections 617 to 619 of the German Civil Code,

- Protection against discrimination according **to the General Act on Equal Treatment (AGG)**, in particular through positive measures to compensate for existing discrimination (Section 5 AGG), measures to prevent discrimination (Section 12 AGG) and the establishment of a competent complaints office for dealing with discrimination cases (Section 13 AGG),

- Regard for the new **Civil Status Act**, whereby no gender indication and the option of the legal gender marker "diverse" are acknowledged according to Section 22 (3) and Section 45b of the Civil Status Act,

- Protection of the health and safety of employees when setting up and operating workplaces according to Section 1 of **the German Ordinance on Workplaces (ArbStättV), the technical rules for workplaces and the annex of the Ordinance on Workplaces**.

The **General Act on Equal Treatment** is an important law for employers in terms of the prohibition of discrimination against gender-diverse people. The General Act on Equal Treatment protects people who are disadvantaged in terms of gender, ethnic origin and race, disability, religion or belief, age or sexual identity. The General Act on Equal Treatment is applicable to employment and occupation and includes gainful employment, occupational and working conditions, pay, dismissal conditions, vocational training, etc. Regarding self-employment, the application of the General Act on Equal Treatment is limited to employment access and career advancement. Protection with regard to "gender" as a possible reason for discrimination in Section 1 of the General Act on Equal Treatment covers women*, men*, inter*, trans* and (other) non-binary persons and disadvantages relating to pregnancy (ADS 2019, pages 10 f.; see also Kasten 2019, page 14). Two aspects of the General Act on Equal Treatment should be emphasised. Firstly, pursuant to Section 12 (1) of the General Act on Equal Treatment, employers are legally **required to take the necessary measures to protect against discrimination** due to a reason specified in Section 1 of the General Act on Equal Treatment. This protection also includes preventive measures. This means that measures must be taken not only in the event of discrimination, but also as a **preventive** measure to ensure the inclusion of gender-diverse people. Secondly, if discrimination exists, it is irrelevant whether a person is gender-diverse or only considered as such. The only substantiation required is the assumption that discrimination has occurred. Cis dyadic people can also be victims of discrimination against gender-diverse people if others perceive them as not (only) corresponding to the heteronormative and binary notions of gender.

In the wake of the decision of the German Federal Constitutional Court, there is a real and urgent need for action whereby all the existing legal standards must be reviewed with regard to gender references and, if necessary, amended in light of the new civil status law. Legal experts are currently discussing how these amendments can be implemented; different legal positions have emerged (e.g. Mangold, Markwald & Röhner 2019; Kasten 2019; Plett 2019; Dutta & Fornasier 2020).

3. Fields of action and recommendations for action – gender diversity in employment and occupation

A positive **attitude toward diversity** and social and technological changes, and a disposition to become familiar and embrace that which is yet new, is key to an equal treatment and professional approach to interacting with gender-diverse employees. A willingness to **take a critical look at one's own standards** and a **tolerance of ambiguity** – in other words, the ability to deal with issues that are not clear cut – are also essential. Regarding diversity policies and economic criteria, everyone benefits if people are allowed to "be different without being afraid" (Adorno 1944, page 114). In this chapter, we make recommendations for action based on the risks of discrimination and needs of gender-diverse employees analysed in Chapter 2. We have divided the recommendations into **six fields of action**: All gender inclusive corporate culture, recruitment, gender-related data, language and communication, gender-neutral sanitary facilities and clothing, body and health. For every individual area, we developed modules to promote non-discrimination against gender-diverse people in the workplace. The modules complement and build upon each other. Depending on the professional context, size of the company and capacities, the recommendations for action must be adjusted and adapted to the respective circumstances. The recommendations are intended to help employers in the process of increasing the acceptance of gender diversity.

3.1 All gender inclusive corporate culture

Sustainable and forward-looking social and business models are those that also **value and promote diversity**. To ensure that gender-diverse employees and all other employees feel welcome and at ease in the workplace, colleagues and superiors need to have a **positive attitude** toward gender diversity. The aim is to establish practices that promote diversity and inclusion in the workplace and in day-to-day working life:

> *"Corporate culture needs to improve overall, but I can't force it to. It can only come from the company itself, and its development can be supported"*
>
> (Interview with inter* trans* advocacy group 2020).

To guide this **cultural change**, it is possible to draw from the experience gained and norms implemented in the efforts to promote women's equality, the inclusion of people with disabilities, anti-racist work or intercultural awareness-raising and to effectively apply them to gender diversity. The basis for this is a long-term guided process of opening up the company's development.

MODULE 1: Structural integration of gender diversity in corporate culture

In this module it is argued that the inclusion of gender diversity needs to be deeply and sustainably integrated into the corporate culture. The basic principles of an all gender inclusive corporate culture and the competencies and responsibilities for implementing it in the workplace are explained. Finally, we discuss the promotion of all gender diversity in career advancement policies and practices.

Principles and values

A **welcoming atmosphere** and an inclusive corporate culture for gender-diverse employees are based on a number of general principles and values.

Openness, appreciation, trust, solidarity, respectful conduct and equal pay for equal work are key to a **positive working atmosphere** for all employees. The promotion of diversity in teams and participatory approaches, in which the perspectives of gender-diverse employees are actively involved – as well as those of other structurally disadvantaged groups – also contribute to an inclusive workplace. **Recognition and acceptance of gender diversity should be held as a value, become a consistent feature of everyday working life** and **practised in interactions among employees**, regardless of whether or not any of them are visibly gender-diverse. Employees in their various individual identities, biographies and lived realities should be recognised, perceived and included as equals, and not defined by any presumed identification with a particular group. This means that **the inclusion of individuals results in the inclusion of all**. A positive and friendly working environment can be achieved by creating structures for communication on conflicts and misunderstandings and developing a culture that encourages a positive attitude toward mistakes, a willingness to educate oneself and lifelong learning. This requires awareness of structural, institutional and interpersonal violence, competent structures for handling discrimination and an overall culture of support and intervention in the spirit of solidarity.

Guidelines and principles

Gender inclusivity must be firmly established **transversally** throughout all of the company's functional areas. The focus should be on promoting self-determination, advancement and equality of opportunity for all employees, regardless of their gender and gender identity, in addition to other characteristics of diversity. One key measure is to develop and establish **mission statements, guidelines and quality standards**. Guidelines on diversity and non-discrimination should **explicitly include gender diversity as a dimension** and, where appropriate, explicitly designate and include inter*, trans* and non-binary people as structurally disadvantaged groups. Existing guidelines and agreements need to be reviewed and adapted to the inclusion of gender-diverse employees in terms of both language and content. This also applies to **internal regulations on family-friendly policies, pregnancy, maternity rights or parental leave**, so that gender-diverse employees can also receive consideration in this area.

Guidelines can vary in their format, scope and level of detail depending on the size and structure of the company. They should be **supervised by the management** and developed **collaboratively** with the involvement of equal opportunity and/or anti-discrimination bodies, diversity and inclusion officers, works or staff councils, employees and other relevant bodies. In some cases, the collaborative development is mandatory if the guidelines foresee the right of co-determination of the works or staff council. The directives should be established as a contractual element in the employment relationship, such as a point in the employment contract or a company agreement, to ensure their legal effectiveness. It is also worth seeking advice from inter* and trans* organisations or employee networks that work on gender diversity. It is important to have **a general statement of commitment** on an inclusive attitude towards gender diversity that applies to all employees as a code of conduct. For example, the statement could be worded as follows:

"We recognise people of all genders and gender identities and treat them equally. Self-determined names, forms of address and gender identities and gender diversity are to be respected as a matter of principle. We do not accept discrimination against employees based on gender, gendered norms and gender attribution. Everyone is responsible for a company culture in which gender diversity is included and valued."

The implications for specific areas of work and structures should be specifically outlined in the guidelines, such as language, sanitary facilities, human resource management, data protection, etc. (see chapters 3.2 to 3.6). Guidelines should **be clearly and specifically worded** and **communicated** at the start of employment, and should be kept present in the daily tasks and routines, featured in internal communication (intranet), on the website, in qualification profiles for job postings, events, press releases and participation in thematically relevant events such as CSD.

Responsibilities

All employees in the workplace are responsible for implementing an inclusive and diversity-conscious corporate culture in their day-to-day work. At the same time, certain members of staff, executives and anti-discrimination and equality officers have greater decision-making powers and special responsibilities. In hierarchical working structures, it is imperative that **executives and managers demonstrate their commitment to the above principles**: "Policies and processes help to embed good practice. However, it is more about having top level support and role models who set a good example. Training can be made mandatory to force people to learn, however this does not create lasting cultural change. Lasting cultural change is about getting people thinking, and making the right choices of their own will, because they believe in it" (Marvell et al. 2017, page 48).

If the management is not open or willing to implement the necessary changes and measures, it is particularly important for gender equality, equal opportunities and anti-discrimination officers to take the initiative. **Gender equality officers** are responsible for the inclusion and equality of structurally disadvantaged genders. In the past, this usually meant cis dyadic women. As explained in Chapter 2, gender-diverse people experience both structural and individual discrimination based on their gender. This chapter notes as well that **it is also the task of gender equality officers to ensure non-discrimination against gender-diverse people**. In practice, however, gender equality officers are often expected to manage all equality issues entirely on their own. This can be problematic since they often do not have enough time, resources and decision-making power to adequately cover the concerns of gender diversity within the scope of their activities. Gender equality officers must therefore be granted more **recognition, capacity, resources and decision-making power**. At the same time, other actors, such as works and staff councils, diversity, inclusion and anti-discrimination officers should also be responsible collaborators in the process of improving inclusivity. Where possible and indicated, specific offices responsible for gender equality and the inclusion of gender-diverse people should be set up, and equipped with the required specific knowledge and resources.

It is up to the equal opportunities and anti-discrimination officers, diversity management, works and staff councils to **ensure a low-discrimination and inclusive work environment** and **provide support for employees in the event of discrimination**. Those in charge should be trained to handle these situations and the needs of gender-diverse people. In doing so, discrimination against inter*, trans* and (other) non-binary people at the structural level must be taken into account (see subsections 2.1 and 2.2). For example, **gender equality, equal opportunities and anti-discrimination officers** can initiate awareness-raising measures for a company, draw up guidelines, offer information and counselling, create contacts to external offices and initiate evaluations and surveys on the diversity climate and discrimination in the workplace. In small companies, responsible employees can seek assistance from external bodies such as trade unions, chambers of commerce, public authorities or anti-discrimination bodies for measures with similar objectives.

In larger companies and businesses, the changes required in order to implement an all gender inclusive corporate culture needs to involve all the departments, including human resources administration, public relations and communication, building management and the IT department. It is advisable **to set up a cross-company working group** that includes representatives of the above areas, who will be responsible for planning and implementing the required measures. The working group should also specifically involve the management, gender equality bodies, complaints management, works and staff councils and other bodies responsible for anti-discrimination issues.

Career advancement

In order to ensure equal opportunities for gender-diverse employees and allow them to reach their full potential, it is important that **they be given opportunities to advance their careers** and support in furthering their qualifications at work. Information on further education, training courses, career counselling and professional development programmes must include gender-diverse employees, which means that **such measures must also be aimed directly at them** and communicated to them **as a matter of course**. It is important for the inclusion of gender-diverse employees in career development to raise awareness of gender diversity among consultants and training managers and to use all gender inclusive language.

There are other ways to support individuals, such as assuming the costs or granting time off work for any vocational training required to make up for missing qualifications. This will help compensate for any disadvantages suffered by gender-diverse people during their education:

> *"Many inter* people have a long medical history which often prevented them from attending school. They then had to work through everything, which is why I believe it is important that companies offer professional training to dedicated people and that they encourage and support them"*
> (Interview with inter* trans* advocacy group 2020).

Measures such as **coaching** or **mentoring programmes** that address the specific concerns and needs of gender-diverse people are also very useful. When implementing such measures, it is recommended to connect and cooperate with inter* and trans* organisations, LGBTI counselling centres and internal or local gender equality officers at the company. It may also help to work with other employers on developing **industry-specific services**. The brochure "Empowerment for Trans* in the Workplace"[26] available from the Berlin State Office Equal Treatment and Against Discrimination is a good place to start.

---

26   https://www.berlin.de/sen/lads/_assets/schwerpunkte/lsbti/materialien/tia/tia_broschuere_empowerment_bf.pdf

MODULE 2: Awareness-raising and training

Section 12 (2) of the General Act on Equal Treatment stipulates that protection against discrimination also needs to be ensured in the context of training and further education: "The employer shall indicate in an appropriate manner, within the context of vocational training and further education in particular, that such discrimination is not permitted and ensure that it does not occur." This means that awareness-raising and training measures are required. "Raising awareness of trans or intersex issues and educating the workforce is therefore essential to promote better inclusion"[27] (Marvell et al. 2017, page 9). The independent expert commission of the German Federal Anti-Discrimination Agency (ADS 2015, page 32) also states that "awareness [should] be raised about gender diversity among employees in all organisations and companies." In the following, we will discuss the aspects that need to be considered when organising and formulating awareness-raising and educational measures.

Objectives and content of awareness-raising and training

Further education and training are appropriate measures for conveying a **basic knowledge of gender diversity** and developing a **positive basic attitude** around the lived realities, discrimination and needs of gender-diverse people. This aim here is to stimulate **reflection** on one's own positioning in terms of gender and notions of gender and gender identity. Further education programmes and training courses should be designed **to reduce inhibitions, uncertainty and prejudice**, which will enable professional and low-discrimination interactions with gender-diverse employees. Ideally, awareness-raising measures and training courses should be part of a professionally supervised process of increasing the acceptance of gender diversity.

---

27   To improve inclusivity, it is therefore essential to raise awareness of trans* or inter* issues and educate the workforce.

Questions to raise awareness

The following questions are intended to help develop awareness of the ways in which gender norms consciously and subconsciously influence one's own thinking and actions. They are not a substitute for continuing education, but are intended to spark ideas and show that further training is necessary in order to develop a positive approach towards gender diversity in occupation and employment. The prompt questions are inspired by the questions from the language guide of AWO Berlin (AWO Landesverband Berlin e. V. 2017).

- How do you react to what is supposedly "atypical" female or male behaviour? What effects does your behaviour have on the other person?

- What thoughts, reactions and assumptions do you have toward gender-diverse people or people whom you cannot clearly identify as female or male?

- How do these assumptions impact your interactions with gender-diverse job applicants during interviews or your interactions with colleagues at work?

- How do you handle situations in which someone's appearance in terms of gender is inconsistent with their name?

- Who do you like? Why? How much does this depend additionally on whether a person affirms or disrupts commonly held notions of masculinity or femininity in the workplace?

- What is it about gender-diverse people that makes you uncomfortable and what would help you overcome this discomfort?

- Whom do you perceive as competent or professional /whom as unprofessional and why?

- What does this have to do with the person's appearance in terms of gender?

Awareness-raising and training measures

To ensure greater awareness over the long term, **continuous training and awareness-raising measures** that build upon each other must be provided for employees. Companies that lack the capacity to offer their own educational measures, due to their small size or other reasons, should engage external service providers. General trainings on discrimination, diversity or equality between cis dyadic women and men already exist in many companies. **Gender diversity should be incorporated into these existing trainings** and specific new offers should also be intersectional. If companies provide vocational training, the topic should also be included in the apprenticeship and expanded with the expertise of trans* and inter* counselling centres.

"This is also an integral part of the care concept, so for example, we also provide training in terms of care, which is conducted by the trans and inter* counselling centres and is mandatory for all the trainees at our company. LGBTIQ is also part of diversity training, which includes one day dedicated solely to trans* and inter* issues"*

(Interview with medium-sized company, 2020).

Some employers and inter* and trans* organisations are clearly in favour of **mandatory participation in diversity and inclusion training**, in which the subject of gender diversity is firmly established transversally within the company. From a legal standpoint, employees cannot simply be required to participate in such training. However, such mandatory training can be included in a diversity agreement or code of conduct, whereby the works council should be regularly granted a right of co-determination. This training must take place during working hours and the costs incurred must be at the employer's expense. As such, it will reach people who would not have taken part in the training or further education on their own. In addition, it **provides ongoing educational opportunities** that bolster and take the pressure off community-based inter* and trans* organisations:

> *"I think that gender diversity needs to be much more integrated into education and must be mandatory, because we cannot do it from within self-advocacy organisations. It is important for it to be mandatory for everyone to have some knowledge on the subject"*
>
> (Interview with inter* trans* advocacy group 2020).

The various companies and organisations we interviewed described **different formats** as effective and helpful. Some explained that **personal stories and biographies** in further education pave the way for an empathic approach to the subject. One major company reported a positive experience with **out of the box training**. It included an explanation of terms, based on which the participants were able to engage in discussions on gender diversity with greater confidence. As a result, the employees had a better understanding of the challenges faced by LGBTIQ people in the workplace. Others also described positive experiences with **events for several days**, since they generated an initial enthusiasm that led to the testing of various measures in the weeks that followed and more detailed learning in subsequent units. It is important in this regard to specify the objectives of the sessions internally and to find formats that are adapted to the local resources and circumstances.

Organise training courses for specific target groups

All employees should be allowed to participate in training and facilitation of accepting gender diversity, which will increase their awareness in their day-to-day work. The employees must be granted the time and financing to participate (for example, by crediting the hours to working time and having the employer cover the costs). Small and medium-sized enterprises in particular, which often have few or no resources for specific internal training, should encourage employees to take advantage of external training and empowerment programmes on gender diversity, which are offered by entities such as trade unions, education academies or business associations.

Specific training is required for managers, human resource administrators and other people with special responsibilities (such as IT, data protection, occupational health employees, the legal department, employee representatives, consultants, gender equality and anti-discrimination officers), taking into account the respective activities and positions, in order **to enable the development of differentiated competencies**. A sustainable effect is achieved if trained employees can also act as multipliers in the workplace.

Questions for determining training needs:

- What type of training courses does the business/company/administrative unit need and which specific topics need to be covered in the training courses?

- What key questions and content are needed to change the working climate and improve the inclusivity of gender-diverse employees?

- Which areas of the company need specific training?

- Which training courses can be provided with the available internal resources? Where can external resources be used if internal resources are limited?

- What competencies, experience, knowledge and positioning should training managers have?

- At what intervals should this training be carried out? Are individual training courses sufficient or will it be necessary to provide long-term facilitation?

Select a trainer

As experts, gender-diverse trainers should be prioritised for education programmes on gender diversity, as this can reduce the anxiety and uncertainty of management and employees in training sessions and integrate everyday experiences from the perspective of the affected person. Professionals can provide competent answers to questions that are normally inappropriate in the workplace:

> *"We use this quite often in our training by saying, 'Please ask us any questions that you have in the back of your mind. We can handle it, we are willing to answer them and are trained to do so'"*
> (Interview with inter* trans* advocacy group 2020).

Cis dyadic people can also provide competent training on gender diversity provided that *"they have engaged with the subject in depth and are aware of their own position. They must be aware of their own roles and the limitations of their abilities and knowledge"* (inter* trans* advocacy group).

Finding training programmes

Further education programmes on gender diversity and gender-diverse training providers can be found through various sources. One way is to enquire at regional or national inter* and trans* counselling centres, LGBTIQ resource centres or local representatives. They will either offer training themselves or refer you to external educational institutions and providers. Some trade unions and business associations also have dedicated networks and can share their contacts with employers. Certain management consultants already cooperate specifically with gender diversity experts and can offer competent training. Some authors and editors of relevant publications also provide training themselves (see Services section (4.)).

MODULE 3: Dealing with resistance and discrimination

Resistance in the workplace

Changes and diversification processes in the company can lead to resistance among employees, but also among customers, clients or business partners. **Resistance should always be prevented rather than tackled** when a conflict already arises or when a gender-diverse person is hired. Anonymous employee surveys at the beginning of diversification processes are a good way to assess the company's mood, experience and knowledge of gender diversity. Based on the results, measures can be taken to prevent potential negative attitudes. Resistance, uncertainties and overwhelming feelings can be dealt with preventively by distributing information, organising events or providing accessible training courses.

The objection that gender diversity is only relevant to very few people can be addressed with **a clear assertion regarding anti-discrimination**:

> *"People were effectively convinced when it was pointed out that diversity per se is a company's attitude and that one must not measure how many people benefit from it. Ultimately, the question is whether I stand for inclusivity, whether it matters to me that every person who comes feels accepted enough to 'come as they are'. Or whether I am calculating a cost-benefit ratio – whether it is worth it for that person but not for the other"*

> (Interview with large company 2020).

This attitude can also **be taken as a formal guideline**, as shown in the following example: "Employees who raise concerns about transgender colleagues must be referred to the SAP Global Diversity Policy, which states that they are required to work with colleagues regardless of their gender identity and that any refusal to do so may result in appropriate disciplinary action, including dismissal. After reading the policy, if employees express concerns about the appearance of a transgender employee or are curious as to the changes that can be expected in the appearance or behaviour of the colleague, the manager can arrange a meeting with those employees to provide more information and answer questions. If the transgender employee agrees, an informal team meeting may be convened in which the employee or manager announces the gender transition and offers training or briefing sessions on transgender issues [...]. The aim is to promote a healthy working environment for all employees" (SAP 2014, page 9).

Concerns over measures for inclusion and the promotion of equality of opportunity for gender-diverse people are often justified by a lack of resources. This can be countered by the fact that **many effective solutions can be implemented without a great deal of expense or economic resources**:

> *"We use everyday examples to make it clear that it doesn't take much to be gender sensitive. It is important for everyone to understand that certain points or measures concern everyone, and not only gender-diverse people. That this sensitivity and non-discriminatory attitude would extend to everyone in general"*

> (Interview with trade union, 2020).

Resistance can be mitigated by **transferring experience from established changes that have promoted inclusion** and a positive attitude toward social change and diversity. The inclusion of gender-diverse people does not impair other gender equality measures, but complements them and therefore improves **opportunities for all employees to participate**. Positive examples can also be taken from other companies that have already successfully gone through the process of including gender-diverse people in order to demonstrate feasibility.

Prevention and awareness-raising measures

When gender-diverse people experience discrimination in the workplace, they do not necessarily report it right away and receive support. There are many reasons for this: They may fear further discrimination, dismissal or career issues, they may be overwhelmed, unaware of their rights, unfamiliar with counselling centres and complaints offices, or they may lack trust in competent authorities or fear that they will not be taken seriously, etc.

Preventive measures are the basis for effective protection against discrimination incidents. Employers are required to implement them in accordance with Section 12 (1) of the General Act on Equal Treatment. Awareness-raising measures that are visibly promoted by the management are an effective means of showing a clear attitude. You can address the following points:

- **What are discriminatory behaviours towards gender-diverse employees?**
  It should be made clear that derogatory comments, deadnaming[28], misgendering[29], intimate questions, use of othering terms, jokes, the denial of a person's gender identity and any other form of harassment or exclusion constitute discrimination.

- **How can colleagues show solidarity in situations of discrimination?**
  What can supervisors do? Managers must clearly name discriminatory behaviour as such and must not play it down, but instead intervene unambiguously and take action against discriminatory behaviour. In addition to interventions, the victims will be given options for support.

- **What rights can gender-diverse employees exercise in order to defend themselves against discrimination?**
  Part of prevention is to ensure awareness of the laws that protect gender-diverse people from discrimination, for example the General Act on Equal Treatment (see subsection 2.3, page 38).

- **Which internal contact persons and offices can gender-diverse employees turn to in the event of discrimination?**
  Which external counselling centres can they contact? Employers should set up a complaints office and counselling centre, inform everyone about these resources and the persons in charge, explain what each of them do and how they work and how a complaint procedure or a consultation takes place.

- **How can we ensure that gender-diverse employees are given competent advice and their complaints are taken seriously?**
  Measures to raise awareness and develop competencies should be taken by the people in charge and should also be made transparent. This can help the employees feel more confident about asking the responsible contact persons in the company for assistance.

---

28   The repeated or deliberately offensive use of the name given to a person at birth or the name under which they are officially registered if this name is not the same as their preferred name.

29   The deliberate use of forms of address and pronouns that do not correspond to the self-determined gender or gender identity of a person.

All of this information can be provided on the website, on the intranet, via flyers and brochures or on posters at the workplace. It is important to communicate and embed a **zero tolerance attitude toward discrimination as part of the company culture**. A prompt and unambiguous reaction from colleagues and team leaders to the first signs of disparagement, hostility, aggression or exclusionary behaviour toward gender-diverse employees is the most effective form of protection. According to the wishes of the victim, particular discretion is required in dealing with the situation and should also apply to data protection, general personal rights and the right to informational self-determination. **Managers function as role models in this regard** and have a special responsibility when incidents occur:

"[…] it is extremely important to simply show solidarity – in the absence of any further actions – which makes it clear right away that the incident is being taken seriously. If the boss says 'I am backing you up' and sends this message to the outside, it changes the situation tremendously"

(Interview with inter* trans* advocacy group 2020).

This support and intervention by the management is especially important when customers, employees of other companies or other third parties are the offenders. Employers are required to protect their employees according to Section 12 (4) of the General Act on Equal Treatment: "If employees are discriminated against by third parties in the pursuance of their profession or during internal events such as company trips, business trips, celebrations (see ErfK & Schlachter, 2020 marg. 1 AGG Section 12 marg. 1) within the meaning of Section 7 (1), the employer shall take suitable, necessary and appropriate measures, chosen in a given case, to protect the employee in question."

Complaints and counselling centres

If discrimination within the team is rampant or comes from management, it is especially important for the gender-diverse person to receive sensitive support from equality or anti-discrimination officers or complaints offices. According to Section 13 of the General Act on Equal treatment, employers are required to establish an internal **complaints office** that examines whether the fact reported in the complaint constitutes discrimination within the meaning of the Act (Liebscher & Kobes 2010). The complaints office collects any available information about the situation, makes an assessment of the facts and informs the complainant of the result. Whenever a complaints office receives a notification, it must initiate proceedings. Complaints offices are impartial and listen to all parties involved in a conflict (see ibid., page 33).

On the other hand, counselling services such as those offered by representatives or trade unions often provide advice and support on a partisan basis for victims of discrimination. This distinction between the internal complaints office according to Section 13 of the General Act on Equal Treatment and the counselling or support office should be clearly communicated internally. In addition to the complaints office, it is important for gender-diverse employees to have access to other internal and external offices and contact persons who offer confidential and anonymous services and are able to provide **advice, guidance and support for victims**. This support can be provided by the company's own equality or anti-discrimination officers, persons of trust or others. Some companies have anonymous hotlines, support helplines or chat consulting, which can be an empathic and low-threshold service for employees. However, external hotlines or complaints offices do not eliminate the requirement to provide an internal counselling office. The works council's right of co-determination can be considered when developing a complaint procedure.

"The works council and staff council also have a duty to handle discrimination and must also inform and prepare themselves accordingly"

(Interview with inter* trans* advocacy group 2020).

Trade unions can also offer assistance to gender-diverse employees who experience discrimination.

Those in charge of these bodies must be specifically **sensitised and trained in situations of discrimination against gender-diverse people and multiple discrimination**, in order to provide reassurance that gender-diverse employees will be taken seriously and given support. Trade unions and works councils should expand their competences on this topic accordingly. Small businesses can also contact their local or national anti-discrimination office or, if available, LGBTIQ or gender diversity centres for advice and support in specific situations.

These are also places where gender-diverse employees can request assistance if they are overwhelmed by the situation, feel insufficiently supported or misunderstood, need psychological support or wish to obtain information on what they can do.

What can be done if discrimination occurs

"It's incredibly important when I stand up [as a supervisor] for someone [as an employee] that I do it in a highly visible and audible manner in full view of everyone. I then say: 'No, it's not up for discussion now. If you feel somehow offended that you're suddenly supposed to address them by a name that you don't find relevant at all, then that's your problem. And I have made it very clear what is expected from you'"
(Interview with inter* trans* advocacy group 2020).

When dealing with situations of discrimination, managers first and foremost need to demonstrate a clear attitude of zero tolerance for discrimination in order to ensure the protection of the person experiencing the discrimination. According to Section 12 (3) of the General Act on Equal Treatment, **employers are required to take necessary and appropriate measures to prevent discrimination** if employees violate the prohibition of discrimination. These include sanctions such as warnings, release from work or even dismissal, whereby the legality of the sanctions always depends heavily on the individual case and the general conditions for dismissal and warning must be met. The appropriate and effective approach and measures must be decided based on the specific situation and context and with regard to the severity of discrimination. An internal transfer without further processing of the situation does not provide protection against further discrimination.

"The key is to send a clear message from the team leadership or from management that says: 'We want zero discrimination in our workplace and discriminatory behaviour is unacceptable – if there are any questions, please contact me.[...] It is important to confront the issue of gender diversity or diversity in the workplace in general and to talk to each other about our differences'"
(Interview with inter* trans* advocacy group 2020).

The measures introduced to prevent discrimination should be reviewed as to their effectiveness and adequacy and whether any preventive actions were subsequently identified to protect against discrimination. If gender-diverse people still face risks of discrimination, measures are needed to change the circumstances that caused or enabled the discrimination. For example, the person engaging in the discriminatory behaviour should be prompted to take relevant **training courses**, in addition to meetings to clarify the issues and, where appropriate, disciplinary measures. **Training courses for the entire team** are also useful to prevent and protect against discrimination. In certain cases, **arbitration or mediation may** also be helpful, whereby careful consideration should be given as to whether the proceedings are consensual and whether the burden on the victim is tolerable.

With respect for privacy and with the consent of the parties involved, incidents should be processed together with superiors and equal opportunities, diversity and anti-discrimination officers, in addition to all employees, in order to prevent further discrimination. Even if discrimination is reported after the parties have changed jobs, the case should be processed after the fact for prevention purposes. If the discrimination is caused by underlying structures and institutions through administrative procedures or work-related instruments, these must be changed immediately by providing gender-neutral sanitary facilities, establishing an option to change one's name, etc.

MODULE 4: Outreach work on gender diversity

Gender diversity in campaigns

Companies like to communicate their openness to diversity by featuring people of various skin colours, sexual orientations, ages, lifestyles, body shapes, etc. in their public relations campaigns. **Explicitly referring to gender diversity, representing it** with sincere intentions and actually practising it **sends a positive message, both internally and externally**. In particular, campaigns that highlight the political implications of anti-discrimination and empowerment can help raise awareness. However, if this visibility is intended to contribute to the inclusion of gender-diverse employees, it is important to adopt a **participatory approach and to take into consideration the various positionings and lived realities of inter*, trans* and (other) non-binary people**. Symbolic gestures made by merely depicting gender-diverse people (along with other underrepresented groups) are not enough. The visibility of gender-diverse people in public relations campaigns must tie in to a comprehensive strategy for an all gender inclusive corporate culture and the principle of participation ("no representation without participation"), with the aim of actually including gender-diverse people. This also means that **gender-diverse people should not be instrumentalised** to merely improve the image of the company while internal structures remain unchanged.

Participation of gender-diverse employees

When it comes to **the positive visibility of gender diversity** in a company, it makes sense to involve gender-diverse employees in the content development, and efforts should be made to include them without putting them under pressure to participate. **Voluntary portraits or interviews** are also a way to increase the visibility of gender-diverse employees, raise awareness and create space for positive experiences, as shown by the following examples:

— interview with Leonora Friese at AXA[30]

— interview with Nils_Séline Schächtele at Bosch[31]

It should be noted, however, that campaigns featuring gender-diverse employees from within the company may be linked to their own (personal) exposure to discrimination, hostility and violence. For this reason, participatory **protective measures** should be agreed in advance. The Gender Spectrum Collection[32] offers a bank of stock photos that companies can use if they are not permitted or do not want to show photos of their own employees. The collection is a good example of respectful representations. Care should be taken to avoid stereotypical images and to **focus on the representation of the professional role or activity**.

---

30   https://www.axa.de/karriere/coming-out-am-arbeitsplatz
31   https://www.proutatwork.de/nils_seline-nica-schaechtele/
32   https://genderphotos.vice.com/

Strategies for long-term internal and external visibility

Public relations work that aims for effective inclusivity should **feature content about gender diversity on an ongoing basis** through different media. Gender diversity should be integrated intersectionally in the way a company presents itself overall and in publications, advertising campaigns, press releases, newsletters, etc. This allows an all gender inclusive and overall diversity-conscious attitude to be communicated internally and externally in the working environment. Relevant content can also be produced or published regularly in videos, podcasts, blogs, newsletter posts and other media. Flyers, brochures and posters in company rooms are also effective and encourage an ongoing discussion around gender diversity among employees.

The provision of gender-neutral sanitary facilities, as outlined in subsection 3.5, is another opportunity to address gender diversity. The signatures described in subsection 3.4 "Language and communication" with references to all gender inclusive language in emails or on profiles are part of public relations work. In this way, the company's commitment and process of embracing gender diversity can be communicated both internally and externally. An example of a signature might be: "An opening process is currently underway to improve all gender inclusivity at our company. This is why our general writing style is all gender inclusive or gender neutral. Please let us know how you would like to be addressed. We would be happy to receive your comments, criticism and suggestions for improvement."

Questions on inclusive public relations and imagery

- Which people are visible for which topics?

- Are gender-diverse people generally visible and are they involved as regular employees?

- Who is represented in pictures in publications, in job postings, on flyers, on the website (for example, in pictures illustrating the management), advertising campaigns, etc., and how? Who is not represented?

- What impression is given of qualifications, professional positions and leadership skills? Who are these elements indirectly attributed to and who are denied these?

- Have gender-diverse people or structurally underrepresented people in general been shown in public relations campaigns before? If so, who, or which groups? How and where are they represented? In which roles?

- Are intersectional identities and affiliations taken into account? Which norms are reproduced?

Organisation and participation in events

In addition, the visibility of processes to embrace gender diversity can be increased by **co-organising, visibly participating in and providing financial, conceptual or logistical support for related events** (such as IDAHOBIT, Trans*Visibility Day, Intersex Awareness Day, CSDs, Diversity Day). Internal events can also be organised in cooperation with existing networks, counselling centres and resource centres as a way to communicate internally and externally about how the company is embracing gender diversity and to create relevant content.

> *"[…] when the UN global standards against discrimination were adopted by LGBTI, we were the first to join in and we made it public. We share events through press releases and social media and also use our external Vimeo channel. And this also includes flying the flag during the CSD season: In a large display case in the reception area of the building, where we show a big picture of the flag"*
>
> (Interview with large company 2020).

If there are already established activities or event formats (such as an open house day, lecture series, story-telling cafés, exhibitions in the foyer), they can be used to **create a space for gender-diverse people**: "For example, they invited a non-binary trans woman to talk about her experience of transitioning at work […] and what support is most effective"[33] (Marvell et al. 2017, page 40). In this way, the perspectives and experiences of gender-diverse people can be made visible and awareness among employees, customers and visitors can be raised at the same time. This also gives gender-diverse people the chance to learn about the employer and any potential job opportunities. It can also be motivating to plan a company excursion to explore gender diversity by visiting cultural events such as film festivals, theatre performances, exhibitions or readings on the subject. A medium-sized company describes how cultural work in cooperation with local trans* and inter* counselling centres has been able to stimulate positive discussions on the subject despite uncertainties:

> *"We are doing cultural work with the local coordination centre, such as an LGBTI exhibition. […] We were a little sceptical at first at the exhibition of trans*Mann and were concerned that too many people would object; but the Q&A session afterwards in the storytelling café was amazing. Of course, these are also trained people who can handle curious questions […], there is a lot of curiosity and no fear or distrust, but a lot of openness"*
>
> (Interview with medium-sized company, 2020).

Gender-diverse people, along with other people subject to structural discrimination, should of course be generally represented as **qualified experts** at congresses, lectures and in committees in matters other than discrimination or gender diversity.

From a public relations perspective, efforts should always be made to include everyone in the organisation of events. Bundesfachstelle Barrierefreiheit (German Federal Department of Accessibility)[34] offers practical help for the implementation of **inclusive events**. They provide recommendations on accessibility with suggestions on how to organise events inclusively. The needs of gender-diverse people are often still neglected. But there are ways to address this mentioned in Chapter 3, such as providing sanitary facilities, using name tags, using preferred names and pronouns, etc.

---

33 "For example, they invited a non-binary trans* woman to talk about her experiences with the transition at work […] and how to best support someone."
34 https://www.bundesfachstelle-barrierefreiheit.de/DE/Praxishilfen/Veranstaltungsplanung/veranstaltungsplanung_node.html

MODULE 5: Team-building and related networks

It is helpful to establish intercompany **networks and collaborations** on gender diversity measures in order **to encourage people to share their knowledge** and **use resources more effectively**. The aim of these networks, working groups or round tables is to explore which people at the company should be involved and what kind of external expertise should be brought in (from resources such as inter* and trans* organisations, gender equality officers and anti-discrimination bodies at the local, state or federal level).

Company networks

Networks for queer, gay, lesbian and bisexual employees, for women*, fathers*, younger and older employees and employees affected by racism or disabled employees are **an established empowerment tool** in larger companies and organisations. These should be expanded with the addition of gender-diverse employees. To do this, the existing groups need to open up and **explicit groups and queer networks need to be created** in order to include the concerns of gender-diverse employees. Networks provide regular informal meetings and peer-to-peer support for employees. Smaller companies have the option of collaborating with suitable networks or groups of trade unions or to form intercompany groups within their respective industries.

Allyship

Allyship refers to the solidarity and actively supporting role of people who are not subject to the specific discrimination themselves. Allyship is not limited to certain formal structures and may be part of the general corporate culture for all employees. People develop allyship by specifically **confronting the issues around gender diversity** and the discrimination associated with it and **examining their own attitude towards it**. Allies of gender-diverse employees are familiar with respectful language and preferred forms of address and gender identity, can identify situations of discrimination and know what the options are for providing support within given situations and contexts. They are willing to talk to other employees who make negative comments or show a lack of understanding and help them understand – even if no gender-diverse person was actually present.

> *"We have an ambassador programme for this – for our allies, who are responsive and supportive of the networking efforts. Every person who becomes an ambassador makes a commitment to deal with LGBTQI issues and be visible as a supporter. For example, they have a card with rainbow colours standing on the desk or hanging on the wall as a visible sign of support. So that you can see right away that that the person is open and sensitive to the subject. The card is a sign that LGBTQI people don't need to hide who they are here"*
>
> (Interview with large company).

On a broader social level, a company can be **an ally** by proactively accepting demands from inter* and trans* interest groups and actively and visibly supporting claims for self-determination and equal participation. Initiatives can be supported through **donations and advertising**, or **facilities** can be provided for local groups or events. It is also a good idea to promote **gender diversity as part of the corporate social responsibility strategy**. The company Windata offers a good example. It is an official sponsor of Trans-Kinder-Netz e.V., an association of parents and family members of underage trans* children, whose mission is to "enable our children to live a happy life free of stigma and exclusion" (Windata, no date available). Larger companies can establish an inclusive and appreciative approach to gender diversity as a criterion for working together with other companies and services and communicate this positioning to the outside world.

3.2 Recruitment

The fundamental further development in recruitment is a key moment for the inclusion of gender-diverse people in the labour market. As we explain in this subsection, **both institutionally established approaches** and the **attitude of human resource managers** and management toward gender diversity are taken into consideration when recruiting staff. For an open and inclusive recruitment process, real changes must be made to the practices used in searching for and selecting new employees in order to address and be mindful of gender-diverse employees throughout the entire process.

MODULE 6: All gender inclusive job advertisements

All gender inclusive professional titles

Job advertisements usually begin with a **job title**. Gender inclusive job titles should address cis dyadic women and men just as much as gender-diverse people. **Neutral or inclusive wording for occupations**, such as cleaner, teacher and employee, is suitable here. If gendered job titles are used, these should be replaced with gender-neutral titles. The use of the generic masculine[35], such as with "waiter", or he/she combinations such as "waiter/waitress" are not appropriate, since they refer to a binary gender relationship (more on all gender inclusive language in subsection 3.4).[36]

In addition to neutral and/or all gender inclusive job titles, **extra wording in brackets** must be used to indicate that **the job advertisement is targeted at all genders**, since vacancies generally have to be advertised using gender-neutral language[37]. It is advisable **to explicitly mention at least the four officially recognised genders**: female (f), male (m), diverse (d) and no gender marker (x). For equality purposes, it is important that the letter "m" for "male" is not always placed at the beginning of the sequence, but that the **letters are also rotated** (f/m/d/x). An asterisk * can also be inserted after "m" and "w" to indicate that inter* and trans* women and men are also being addressed (w*/d/x/m*). In wording the phrases "the job advertisement is aimed at all genders" or "all applicants regardless of gender", employers must ensure that gender-diverse people are also being considered in reality and that they are visible in the rest of the advertisement through the use of the appropriate language.

---

35   Generic masculine forms of language only refer to males and are not inclusive or neutral. The wording in the generic masculine is meant to serve as a general reference to all people. The masculine form functions as a standard for the designation of a group of persons composed of all genders. This is also meant to include women*, inter*, trans* and (other) non-binary persons.

36   In German, there are concerns that job advertisements using a gender * or underscore _ will get fewer hits on search engines or job boards; however, this is only a transitional problem that will subside as the prevalence of * or underscore _ increases and search engines are adapted. Proactive measures can be taken to address this by writing to providers and requesting that the search function be adapted to this new practice in order to eliminate any disadvantages. Job advertisements with inclusive job titles can already be found on many portals and search engines.

37   In terms of public service, Section 6 (1) of the German Federal Act on Gender Equality stipulates that job advertisements must be gender-neutral. Until now, it has only indicated that not only women or only men must be addressed. This standard needs to be changed in light of the decision of the German Federal Constitutional Court in order to ensure that job advertisements are actually gender-neutral and take all genders into consideration.

All gender inclusive language in job advertisements

Job advertisements must address **gender-diverse applicants** throughout the entire text. It is insufficient only to use an all gender inclusive job title. It is important for the **entire text have coherent wording** that includes all genders and avoids gender stereotypes. Moreover, the wording for the criteria for the job requirements should not have overly feminine connotations (for example, reliable, understanding, good communication skills) or masculine expressions (such as assertive, team player, decision-maker). The job description should focus on the required skills, qualifications, competences and on the professional requirements of the job itself (see German Federal Anti-Discrimination Agency 2018, pages 23 et seq.).

Applicants can be **addressed directly** to ensure all gender-inclusivity in job advertisements. This eliminates the need to use gendered forms of address. For example: "You should have the following knowledge/skills...", "You will be responsible for the following tasks...", "We expect you to...", "We can offer you...".

Inclusivity statement in the call for applications

Some employers want to target **disadvantaged or underrepresented groups by referring to them explicitly at the end of the job advertisement**. The job advertisement should also address gender-diverse applicants, for example, by using wording stating that applications from inter*, trans* and (other) non-binary persons are explicitly desired and structurally discriminated groups are explicitly encouraged to apply: "We actively promote the diversity and equality of all employees. People of colour, Black people, people with a family history of migration or refugee status, trans*, inter* and (other) non-binary persons, people with disabilities and women* are particularly encouraged to apply. We strive to actively counteract social exclusion by taking special account of structurally disadvantaged and underrepresented people who have the same qualifications."[38]

For positions that **favour women* in the context of gender equality**, the under-representation of gender-diverse employees and their experiences of discrimination need to be considered. These job advertisements should explicitly state that "gender-diverse people who are equally qualified are also given special consideration". The reference to experiences of structural discrimination should be clearly and simply worded so that it does not reproduce exclusions in terms of language skills or terminology.

Additional information in the job advertisement

An inclusive job advertisement mentions that **candidates can use their self-determined names without formal recognition**, even if it differs from the name on the submitted certificates (see subsection 3.3 "Handling gender-related data"). An inclusive option would be to state this explicitly in the job advertisement, for example: "Please let us know the names and pronouns with which you would like to be addressed. We will use them regardless of whether they correspond to the information in your certificates or other documents."

As a general professional standard, **submitted documents must be handled confidentially**, in line with the requirements of the German Federal Data Protection Act and the GDPR. It is advisable to spell this out in the job advertisement, since it is especially critical for gender-diverse people to maintain informational self-determination. **Photos should also be omitted** from application procedures, and this should be clearly communicated in the job advertisement.

---

38   The problem with such a list is that it does not cover all experiences of discrimination and it gives rise to further exclusion based on adherence to specific groups. In addition, these designations are subject to constant change and may need to be adapted in job advertisements. An alternative way to word this could be: "Applicants who are subject to structural discrimination in terms of gender, gender identity, racism, migration or refugee status, disability, sexuality, age or social origin are specifically encouraged to apply." However, this version requires applicants to assess themselves objectively, whereby they may not all feel as if they are being referred to as potential candidates.

If application forms are being used, they should be designed so that gender-diverse applicants can also fill them out. For example, they should not contain unnecessarily gendered terms or requirements to indicate a gender. If this is not feasible, other options are available for indicating a title or gender. Detailed information on the design of all gender inclusive forms can be found in subsection 3.3.

Communication with applicants

The use of all gender inclusive language must continue beyond the job advertisement or application form **in communications further along the recruitment process**. For example, the following options can be used **when confirming receipt of the application**: A confirmation of receipt can be sent with **no name**, for example: "Thank you for your application. We will review your documents and get back to you as soon as possible." Or it can use a **gender-neutral form of address with the given name**, for example: "Thank you for your application, Jinan Ahmed. We will review your documents and get back to you as soon as possible."

When **inviting candidates for an interview** additional barriers for gender-diverse people should be eliminated. All candidates should be given the chance to **communicate their pronouns in advance**, for example: "Please let us know how you would like to be addressed and whether you have specific requirements for the interview." One's own pronouns can be shared in the signature, which signals openness. It also helps to briefly explain in the invitation how the i**nterview will be conducted** and **who to contact for any queries regarding discrimination and diversity**. A discussion with gender equality officers, who are responsible for the equality of all genders subject to structural discrimination, can also be proposed to gender-diverse candidates who have identified themselves as such if they have any open questions on anti-discrimination measures. It should be clarified that appropriate precautions can be taken if necessary to ensure that the candidate's gender identity or personal data is protected from disclosure to superiors or team members.

More information on all gender inclusive language and the use of signatures can be found in subsection 3.4 "Language and communication".

Example including job posting

...employee (f/d/x/m)

Open-ended contract
Full-time or part-time. If full-time, the weekly working time is 39 hours.

Your responsibilities include:

Your qualifications:
In addition to the formal requirements, comparable qualifications are also recognised.

We offer:

- An interesting, varied and challenging job,

- A wide range of training and continuing education services, especially for structurally disadvantaged employees, to help boost your career advancement and professional development,

- An attractive salary,

- A good work-life balance: Flexible worktime schedules and part-time option in alignment with work requirements for an optimal balance of family, personal and professional activities,

- Diversity-aware company health management including health promotion schemes (such as a wide range of physical fitness activities),

- A friendly working environment in an open company aware of discrimination and diversity.

We are currently in the process of building a more inclusive and diverse workplace and diversifying our team. If you have any questions about the current status of this process, please contact the person in charge, [insert name].

We actively promote the diversity and equality of all employees. People of colour, Black people, people with a family history of migration or refugee status, trans*, inter* and (other) non binary persons, people with disabilities and cis dyadic women are particularly encouraged to apply. We strive to actively counteract social exclusion by taking special account of people subject to structural discrimination and under-representation who have the same qualifications.[39]

If you have any questions about the job advertisement or our equality and inclusion measures, please contact the equality or diversity officer [adapt accordingly]. All enquiries will be treated confidentially.

Please indicate any discrepancies between the names in your attached certificates and other documents. All information in your application will be treated confidentially. Please do not send photos!

---

39   An alternative way to word this could be: "Applicants who are subject to structural discrimination in terms of gender, gender identity, racism, migration or refugee status, disability, sexuality, age or social origin are specifically encouraged to apply."

MODULE 7: Recruitment processes and interviews

Transparency in the process of increasing gender diversity

"At the turn of the millennium, the company decided to give more consideration to social diversity. Our job advertisements have been worded specifically to reflect this, since our experience has shown that financial incentives, a company car, etc. are not the things that gender-diverse people consider first. What they want to see instead in a job advertisement is that the working environment is free from discrimination, that the employees are recognised, and that it's a good team whose members get along well with each other. The job advertisements were then composed with this in mind – which is good not only for gender-diverse people, but also for other 'minorities'"

(Interview with medium-sized company, 2020).

By the time all gender inclusive job advertisements are posted, human resource managers will need to take active measures to build an all gender inclusive workplace. In doing so, they should seek opinions and expertise from different sources, including employees, the management, inter* and trans* organisations or the users of the service. This can uncover any **prejudices or gender-based stereotyping**, especially toward women* and gender-diverse people. Rather than leave these aside, supervisors and other managers should view them as part of the collaborative process of confronting the issues and increasing acceptance. They can even be used as the starting point for advanced training on gender diversity issues. **Discriminatory remarks** must **be taken seriously and challenged** and awareness-raising measures must be organised.

To increase the chances of successfully recruiting gender-diverse people, authorities or companies need to communicate that they are striving to build a gender inclusive workplace and share the status of their processes. For example, employers can specify that they encourage people from certain groups to apply, including gender-diverse people. Another effective alternative is to proactively indicate in the job advertisement what the employer has to offer in terms of inclusivity. A link to the website can also help candidates find information on guidelines and measures promoting gender diversity and equal opportunities.

Posting the job advertisement

Inclusive job postings need to reach the right target group, and channels should therefore also be used that will **communicate the job advertisements to gender-diverse people**. Relevant job fairs, magazines or job portals with a focus on diversity-aware employers are a good place to start. Local gender equality or diversity officers (at universities, municipalities or district councils, for example) are often well connected and can share all gender inclusive job opportunities in email distribution lists or on websites.

Employers can also send their job advertisements to inter* and trans* organisations (see Services section (4.)) and ask them to post them to their networks. This will help reinforce the **employer's external image as an all gender inclusive workplace**, which can lead to more qualified applications.

Job boards and job fairs

Job

- Job postings on Queer.de[40]

- Diversity[41]

- LGBTQ* job boards at Gleichlaut[42]

- Goodjobs.eu[43]

- Proudr[44]

- Siegessäule job board[45]

- Local all gender inclusive job boards (such as Gesine's job tips)[46]
  Queer magazines and national magazines

Job fairs and events

- Stick & Stone[47]

- Berlin LGBT+ Tech Week[48]

- Job fairs at universities and vocational schools

Selection criteria and selection process

Human resource managers and supervisors should define **standardised criteria for the selection processes** in which (formal) qualifications and skills required for the job are the primary basis for assessment. These criteria **redirect the focus onto professional requirements** and **prevent prejudices and unwarranted assumptions** (see subsection 2.2).

Inclusive recruitment procedures aimed at promoting gender diversity should prevent aspects such as appearance, discrepancies in CVs, inconsistent personal details in documents, or being open about one's own position on gender diversity from having a detrimental effect on filling the vacancy. If the **workplace requires adaptations** to become gender inclusive – for example, if there is no gender-neutral toilet – gender-diverse applicants should not be made responsible for addressing such needs.[49] An **assumed or**

---

40   https://www.queer.de/rubrik.php?rubrik=123
41   http://diversity-jobs.de/
42   https://www.gleichlaut-mag.com/lgbt-jobboerse
43   https://goodjobs.eu/de
44   https://www.proudr.com/
45   https://www.siegessaeule.de/marktplatz/stellenmarkt/
46   https://gesinesjobtipps.de/
47   https://www.sticks-and-stones.com/
48   https://www.unicornsintech.com/berlin-lgbt-tech-week/bxtw-2020
49   This is not a new phenomenon. The concerns of (cis dyadic) women employed in male-dominated occupations regarding a lack of sanitary facilities in places such as workshops have also frequently been dismissed (Haug 2015, page 53).

actual hostile attitude from other employees is **not a legitimate reason** for rejecting a gender-diverse employee. These circumstances have nothing to do with the qualifications and skills of gender-diverse employees. In this case, it is the responsibility of the company or the management to take anti-discrimination measures.

Discrimination-sensitive selection processes usually go through several phases and are semi-anonymised. Applicants should write their personal data on a cover sheet. These are only reviewed once the person has moved on to the next selection phase in the application process. Additional information, such as CVs and certificates, are kept separate from the application. The purpose of partial anonymisation must be clearly explained in the job advertisement.

There are several anonymised application and recruitment procedures that aim to ensure equality of opportunity in recruitment procedures. These are focused on qualifications rather than individuals and work according to certain discrimination-sensitive principles (for example, standardisation, the dual control principle, computer-assisted processing). Anonymous application procedures can be used to promote previously underrepresented groups (see ADS 2014; Krause, Rinne & Zimmermann 2014).

Employers should take into account that for gender-diverse people, applying for a job **can be particularly stressful** as they have usually already experienced discrimination and exclusion from application procedures and are often affected by **minority stress** on a regular basis (see subsections 2.1 and 2.2). Competitive phases (competitions, joint interviews with other candidates, group tasks, etc.), especially those taking place under observation (assessment centre), should be avoided as part of the application procedure as they can represent additional burdens. Furthermore, a **standardised questionnaire** for the job interview should be prepared in advance so that all applicants are asked the same or similar questions, which is key to ensuring equality of opportunity. It is important to come up with questions or wording that are open and participatory, and that reflect a range of lived realities. For example: "What motivated you to apply for the position? What experience do you have that is relevant to the job? What specific perspectives and experiences can you contribute to the company – also in terms of any skills relating to gender and diversity?" When asking interview questions that are open and sensitive to different lived realities, one should keep in mind that the answers may differ from what is usually expected. Any corresponding **assumptions and prejudices as to the kind of responses candidates should provide** must be confronted and broken down. This is the only way to ensure that gender-diverse people can be taken seriously as applicants and also recruited.

More information on anti-discrimination measures in recruitment procedures can be found in the guidelines "Fair in den Job! Leitfaden für diskriminierungsfreie Einstellungsverfahren (Fair at work! Guidelines for non-discriminatory recruitment procedures)"[50] by the German Federal Anti-Discrimination Agency or Fair recruitment procedures[51] from the European University Viadrina.

---

50   https://www.antidiskriminierungsstelle.de/SharedDocs/downloads/DE/publikationen/Leitfaeden/Fair_in_den_Job.pdf?__blob=publicationFile&v=2
51   https://www.europa-uni.de/de/struktur/unileitung/stabsstellen/chancengleichheit/gleichstellung/berufungen_einstellungen/Auswahlverfahren.html

Composition and awareness of the selection team

Key questions also arise about the **attitude and awareness of the human resource managers** and other people involved in the application and selection processes: How heterogeneous or homogeneous are the selection teams? Do they regard gender diversity as a simple fact of life? What skills do they have that can help ensure inclusive recruitment procedures? Do they feel uneasy around gender-diverse applicants? **The composition of selection teams and their attitude towards gender diversity** are a key consideration in preventing discrimination in recruitment procedures:

> *"As a first step, recruitment agencies need to be sensitised and adopt a gender-friendly attitude. [...]*
> *Nothing can be done without this attitude. We can pass as many laws as we want, but if we do not*
> *manage to change this attitude, then nothing will change in real life"*
>
> (inter trans* advocacy group).

First of all, the composition of the current selection team should be reviewed and assessed in terms of whether it represents the social reality of diversity. Guidance and support is key to **strengthening the diversity skills** of the selection teams. To this end, experts on gender diversity and with other social positions should be involved in gathering ideas and developing solutions together for ensuring non-discriminatory processes. Team leaders and human resource managers can contact inter* and/or trans* organisations or knowledgeable gender equality centres, trade unions, LGBTIQ corporate networks, etc. (see 4. service section). They can review the recruitment procedures and evaluate them in terms of gender-friendliness. Gender-diverse people can be introduced to the workplace over time by filling vacancies inclusively and promoting the "growth" of gender-diverse employees in various departments, including HR.

If the selection team has a low awareness of gender diversity, the members often feel overwhelmed and uncertain when dealing with gender-diverse applicants. This is especially the case if the candidate does not meet binary and heteronormative expectations regarding appearance, voice, clothing, etc. Not only is it very stressful for gender-diverse people, but it also makes it impossible for the application procedure to be carried out fairly. Many companies are already holding **anti-bias workshops** or thematic seminars that enable human resource managers to recognise when their assessments of a candidate's skills are heavily influenced by whether they perceive the candidate as similar or very dissimilar to themselves. Another awareness-raising measure may be to introduce **evaluation processes and mutual feedback from the members in the selection teams**.

> *"I think there are two things employers have to keep in mind. First of all, the applicant must be protected.*
> *Second, human resources decision-makers also need to receive guidance and training on how to handle*
> *such situations. Even if you are conducting a non-discriminatory interview but there is tension some-*
> *where, the person simply won't get the job"*
>
> (Interview with inter* trans* advocacy group 2020).

Gender-diverse applicants are **discriminated against or excluded in both direct and subtle ways** in application procedures. This can arise if the appearance of the applicant seems to cause confusion, a dismissive attitude is adopted or indiscreet or invasive questions are asked, whereby the focus is diverted away from the applicant's professional qualifications. The challenge for human resource managers and management in particular is that they must constantly confront **deeply rooted prejudices and stereotypes**, which are often subconscious and yet still **shape perceptions and decisions**. These prejudices and internalised norms are expressed as microaggressions against gender-diverse people:

"Why am I so quick to judge certain people? Why am I so quick to discredit the competencies of certain people so quickly? Or, on the contrary, quick to assume that they have certain competencies? And why do I feel at ease so quickly with certain people? [...] People need to know that organisations that do not question their practices will simply attract the same kind of people over and over again and therefore remain a very homogeneous bunch"

(Interview with inter* trans* advocacy group 2020).

Professionalism in job interviews

Some gender-diverse people are open about their gender identity during the recruitment procedure and explicitly disclose it in application letters. In other cases, it can be deduced from the documents, for example, that different names appear in them. Other gender-diverse people cannot be identified as such from the application documents. A suspicion may arise during the interview, or it may become clear when drawing up the employment contract. Still other gender-diverse candidates for whom all official documents have been changed, including their insurance number, cannot be recognised as gender-diverse at all.

Regardless of whether there are suspicions regarding the gender diversity of certain candidates, it is recommended to start with a **round of introductions by everyone at the selection interview**, especially if pronouns and forms of address have not been clarified in advance. All those present should introduce themselves with their name and pronouns, which prompts the candidate to do so as well. For example: "My name is...and my pronouns are.../How about you?" This should be a standard practice for all applicants and not only for those who are suspected to be gender-diverse or who have been indicated as such. Selection teams should also take care to **use all gender inclusive language** and avoid generic masculine forms of speech as much as possible throughout the entire interview. Additional useful information about language and communication can be found in subsection 3.4.

Although open discrimination is less common, some gender-diverse people have already received **invasive questions or comments** in job interviews with regard to their appearance, gender identity, gender biography/transition or operations. These questions violate their privacy and lead to undue discrimination. Such questions also make it clear that the gender-diverse candidates are seen as "different" and "deviant", are reduced to their gender or gender identity and not taken seriously as competent potential employees. Selection teams must establish professional standards and ensure that the privacy of the candidates is protected, which includes not asking invasive questions. As a rule of thumb: Do not ask questions that you would not also ask cis dyadic applicants.

Gender-diverse people are free to choose whether to talk about their gender and gender identity or not. This can be relevant in job interviews if the candidate's competencies are based on experiences related to their own gender identity or biography. In the "Out at the Office?!" study, trans* and non-binary interviewees linked their **specific experience to the development of their competencies**: resilience, thinking skills, self or creative development, gender and diversity skills, interpersonal skills, social and communication skills and project and information management (Frohn, Meinhold & Schmidt 2017, page 61).

MODULE 8: Gender-specific job advertisements and physical requirements

Gender-specific job advertisements

A fundamental **prohibition of discrimination in job advertisements** is derived from the General Act on Equal Treatment. It forbids the posting of vacancies targeted only at people of a certain gender. Gender-specific job advertisements can only be posted exceptionally under the conditions of Section 8 (1) of the General Act on Equal Treatment (and the jurisprudence of the Federal Labour Court). Section 8 (1) of the General Act on Equal Treatment states that different treatment on the basis of one of the grounds listed in Section 1 of the General Act on Equal Treatment (gender) is permissible. To check whether this is really the case, employers can ask themselves: "Would the position have remained permanently vacant if only employees without the required uniquely differentiating characteristic had applied for it? Only in cases where the male and female gender, age, religion, race or ethnic origin, disability or gender identity is not merely a desired characteristic, but the employee is paid precisely for it and it is part of the remunerated service and specific task for which they are paid, can the characteristic be considered an essential and decisive professional requirement?" (Munich Commentary on the German Civil Code/Thüsing, 8. Edition 2018, General Act on Equal Treatment Section 8 marg. 7). Common examples include job advertisements for roles in theatre plays or jobs in women's centres and women's shelters. Employers should consider including gender-diverse people into their search, even for job advertisements that were originally gender-specific.

The decision as to whether a given vacancy is open to inter*, trans* women and men or (other) non-binary people, people with the legal gender marker "diverse" and people with no gender registration must **be made and justified on a case-by-case basis** (and in the job advertisement itself, if necessary). The **focus should be on the professional requirements** relevant to the position. Assumptions about a given candidate's assigned gender should be critically evaluated. If gender-specific job advertisements are regularly posted, policies or guidelines should be created for the corresponding procedures for posting, selecting and hiring.

The key **challenge of gender-specific job advertisements and the inclusion of gender-diverse employees** is to analyse our routine assumptions about (cis dyadic) women and men. In doing so, it should by no means be seen as diminishing any achievements made in terms of equality policy. Gender-diverse people and (cis dyadic) women depend on gender equality measures to compensate for structural and institutional discrimination. As for **job advertisements within the context of gender equality measures** (for example, women's support programmes), one should keep in mind that gender-diverse people are also structurally disadvantaged in terms of gender in all areas of life, and that they should therefore be included in support measures and instruments for gender equality.

When **posting jobs in counselling services**, such as for the protection of women* or men* against violence, it is important to remember that gender-diverse people also suffer from interpersonal violence in their immediate environment and from structural discrimination and violence in society as a whole. Whether a **position should be filled by a representative of the target group of the counselling service** (peer-to-peer approach) should be decided under consideration of the users of the service: Can gender-diverse people also contact the centre if necessary? How can the centre take into account the specific way gender-diverse people experience violence or better include them in the existing work? How helpful is it to hire gender-diverse employees for this?

For **gender-specific job advertisements**, which are in any case only permissible under the conditions of Section 8 (1) of the General Act on Equal Treatment, the **genders of the eligible and non-eligible candidates** must be specified: Should only cis dyadic women apply? Does "women*" also mean inter* and trans* women? Are people with the legal gender marker "diverse" and those with no gender registration included? For example, the use of the gender asterisk makes it clear that the job is open to certain gender-diverse employees. The term social worker* often refers to inter*, trans* and (other) non-binary people who (also) identify as female or male. The gender asterisk should therefore be used consistently in the text with words such as women* or men* and a footnote or parenthetical note to the job description should be provided with an explanation of who it includes. The brackets can explicitly include the genders that are suitable for the position, for example, f/d/x, or d/x, or f. Furthermore, m* and f* can be used with the star to emphasise that the position is open to inter* and trans* men* or inter* and trans* women*.

Creative wording can be used in the text of the job advertisement to **signal openness to gender-diverse candidates** while announcing the requirements of the position, for example: "We are looking for actors for our theatre ensemble who are interested in roles with a male* profile. You must have previous acting experience in different genres and relevant training. If you have previously acted mainly in roles with a female* profile but are interested in the job, please feel free to apply. We welcome candidates of all genders."

Physical requirements and implicit gender-specific job advertisements

Although gender-specific job advertisements can only be justified in very rare and exceptional cases (see beginning of Module 7), **certain physical skills are required** in some sectors or for certain activities. Even if a job advertisement is not explicitly gender-specific, the activities are **closely linked to physical requirements that are equated with gender**, for example, in construction, trades, childcare or nursing.

> *"I know that gender-related physical requirements have led to the exclusion of gender-diverse people, especially trans* men, when they applied for jobs that involve heavy physical work – in particular [...], people who don't pass very much as male and are then asked: "Are you even able to carry heavy things?" As for trans* women, they were being turned down for work because it required such small 'cis women' hands. Sometimes it's hard to figure out whether or not these are really just excuses"*
>
> (Interview with inter* trans* advocacy group 2020).

In listing requirements and creating job descriptions, the physical attributes necessary for performing a job must be reviewed and substantiated. Measures also need to be taken to actively **oppose the way characteristics such as physical strength are equated with gender**. The following interview from the construction industry is a good example of how gender-specific attributes can be gradually dissociated from physical abilities:

> *"Usually there are no officially gender-related physical requirements, but in many cases it does matter how muscular, fast, strong or weak someone is. However, trade union members often help each other to stay in the industry. They then realise that there are other professional opportunities in the industry and that they can find a different job in construction. And there are ways to compensate for one's physical qualities. For example, an exoskeleton can help you lift heavier loads, or better yet, take the load off of you. Then the problem becomes that you are expected to carry loads that are twice as heavy. That doesn't work either. But overall, measures are needed to raise awareness and support women. These measures do exist, which is why the women's group was established within the trade union, and the [measures] can also be adapted and implemented for the third gender. But apart from the obvious physical requirements,*

another problem is simply the hygienic conditions on the construction site, which are often lacking, given that there is only one portable toilet where the men stand to do their business and the others don't want to sit down in there after. These things also have an influence on the work atmosphere and who wants to work where"

(Interview with trade union, 2020).

3.3 Handling gender-related data

Gender-related data is all the information about a person that reveals the gender or gender identity of that person, such as first name, registered gender, social insurance number or title. In the employment context, this data is used in employment contracts, when transferring data to social and pension insurance providers and also in daily internal communications. This entails a wide range of risks for gender-diverse employees, such as exclusion due to the refusal to recognise a self-determined gender identity and an increased risk of discrimination due to visibility as a gender-diverse person, or being outed without consent when this information is shared. The aim of the following modules is to define ways of handling gender-related data in the workplace so as to **ensure the recognition and informational self-determination of gender-diverse employees**.

MODULE 9: Informational self-determination

Do not collect unnecessary gender information

The legal framework for the collection and use of personal data in employment conditions is set out in Section 26 of the German Federal Data Protection Act (BDSG) and the **GDPR**. The provisions of the GDPR are associated with Recital 75 on the assessment of the risk to the **rights and freedoms of natural persons**, which may result from personal data processing. For gender-diverse people, the processing of gender-related data involves structural risks of discrimination (see 2.2). Gender-diverse people must therefore be guaranteed self-determination and confidentiality with regard to gender-related data as a top priority. Ask the following key questions: What is the purpose or reason for collecting the gender-related data? Why is the data collection absolutely necessary? Is the data being collected in order to fulfil legal requirements or for anti-discrimination reasons? How will the data be processed and used?

"I think that the collection of gender information always leads to discrimination, and there is no inclusive solution. What do we need them for? This is the question we have to ask ourselves"

(Interview with inter* trans* advocacy group 2020).

Our analysis shows that gender-related data is often routinely collected as part of a cultural norm, without any meaningful purpose behind it. For example, this happens when people sign up for membership cards or create profiles for using services.

Categorising by gender is not a neutral act from an anti-discrimination perspective: It basically divides people into binary gender categories and assumes that the differences between the two groups are socially relevant. This fundamentally discriminates against gender-diverse people because unlike cis dyadic women and men, their gender identity is placed into categories that are defined by others and pathologised.

As an anti-discrimination measure, it is therefore better **to refrain from collecting gender-related data wherever possible**. The gender question can often be left out, provided that it is not required in order to decide whether to establish an employment relationship, to implement, terminate, exercise or perform the job, or to fulfil the rights and obligations of the employees' representation of interests arising from the law or a collective agreement (Section 26 (1) of the German Federal Data Protection Act).

> *"Gender information is not collected internally except in cases where there is no legal way around it. To the outside world, gender is recorded when it is important – for example, in surveys about trans* and non-binary people – and also to show that the people are here"*
>
> (Interview with non-governmental organisation, 2020).

Collection of gender-related data for anti-discrimination purposes

It may be helpful to collect gender-related data if they will be used to implement gender equality and anti-discrimination measures. This requires the written consent of the relevant parties.

> *"I would actually be in favour of not collecting information on gender, but gender is an important factor because it can be the basis for certain inequalities. So with a view to ensuring equal treatment, it can also be useful to collect gender information"*
>
> (Interview with inter* trans* advocacy group 2020).

The following principles should be established and respected when **collecting anti-discrimination and gender equality data** relating to gender-diverse people and other groups subject to structural discrimination: **Self-identification** of the person providing the information, its **voluntary and anonymous nature, transparency** and **the involvement of communities** in all stages of the data collection (Baumann, Egenberger & Supik 2018, page 35). When recording the "gender" category, one should keep in mind that this category relates to various aspects of gender. The challenge is to determine how a characteristic relevant to gender equality can be linked in each situation without reproducing discrimination itself. For example, does the data reflect a person's legal gender marker or physical abilities in any given case? Is gender relevant to family responsibilities in a given context? The gender question often aims to reveal a **particular function or situation of a person** rather than their gender: For example, people of any gender can be asked about pregnancy or parenthood, instead of using terms such as "mother" or "father".

If gender is being asked in order to record experiences of discrimination and group-specific needs for better participation, it is important to obtain data on the **gender identity** and, if applicable, inter*, trans* and non-binary status, and **not the registered gender**. Inter*, trans* and (other) non-binary people and their specific needs should be reflected in **questionnaires**. Within this context, sexual orientation must not be equated or confused with gender diversity.[52]

---

52   Sexual orientation describes which people a person desires, in the categories homosexual, heterosexual, bisexual, pansexual, etc. Sexual orientation is described in Section 1 of the General Act on Equal Treatment as a protected characteristic of "sexual identity". Gender identity describes the self-assignment of a person to gender categories, such as non-binary, inter*, trans*, male and female. Gender identity is included in the characteristic of "gender" in Section 1 of the General Act on Equal Treatment.

The use of "male" and "female" alongside "diverse" and "no gender status" in questionnaires corresponds to the official categories set out in the Civil Status Act. But not all people can or want to be situated within these four legal gender markers. The requirement to be categorised according one of the officially registered genders denies many gender-diverse people the freedom to determine their own identity and constitutes discrimination. It should be noted that not all gender-diverse people fall under "diverse" or "prefer not to say". An option to indicate a **self-determined gender** should therefore be provided. In addition, it should be noted that some inter* and trans* people identify themselves as women* and men* respectively and register themselves as such. The legal gender marker "diverse" must never be equated with "inter*" or "trans*".

The Stonewall and Scottish Trans organisations have written a practical guide entitled "Getting equalities monitoring right"[53] on collecting and using data on gender identity. It gives some direction but needs to be adapted to the German context and, if necessary, made GDPR-compliant.

Legal necessity of collecting gender-related data

The collection of official gender-related data in the employment context is only legally required for the **employment contract** and for **social or pension insurance** provision, based on the data required for personnel records for which the registered first name must be obtained in each case. In cases where officially registered gender-related data needs to be collected, the following applies: In accordance with the Civil Status Act, all employees should be given the option of selecting "diverse" in addition to "female" or "male", or to make no gender selection at all. With regard to all other information and data, the **collection of gender-based data** should be based on self-reported information, regardless of the officially recognised status and first name. Only self-determined first names and forms of address should be used, especially for internal communications. A simple and practical solution to avoid any problems with names is to use gender-neutral forms of address in all messages (see 3.4).

All employees must have the option of **changing their gender-related information** at any time, ideally in an uncomplicated, confidential and transparent procedure with those responsible and who have a duty to maintain confidentiality and data protection (see Module 12). Management or human resource managers should ensure easy access to information about contact persons, documents and procedures for changing first names and gender. One way would be via the intranet.

---

53   https://www.scottishtrans.org/wp-content/uploads/2017/06/getting_equalities_monitoring_right.pdf

Technical feasibility

Interviewees from different companies have spoken of difficulties in making the required adjustments to applications and software programs for the purposes of collecting gender information. Most of them claimed that the products on the market do not offer a satisfactory solution for the inclusion of gender-diverse people, as they often provide no other options apart from "female" and "male". In the few solutions offering other options in addition to female and male, some use categories that have no legal relevance or categories that do not cover certain self-determined genders or gender identities. For some companies, the problem is an outdated system, which needs to be comprehensively upgraded, or a highly centralised and rigid administration and IT system. These difficulties force many companies to offer individual solutions in order to avoid further discrimination. If there are no other options, employers should provide short-term solutions for individual cases. However, a structural solution should be developed for the long term.

Section 12 of the General Act on Equal Treatment requires employers to take preventive measures to protect gender-diverse employees from discrimination. The adaptation of digital applications and IT systems is a necessary anti-discrimination measure to ensure that gender-diverse people are recognised and are not forced to assign themselves the wrong gender. The restructuring process should be initiated by management. IT departments and technical support can request the assistance of external service providers, if necessary. Inclusive software products and solutions should become standard for all employers. Measures for raising awareness of gender diversity among IT employees and are also helpful in general.

The requirements of the university administration's IT system[54] of the working group on trans* emancipatory university policies, written by Professor Rylee Hühne, can also be applied to various companies and different sectors.

MODULE 10: Handling official data in human resource management

Employment contracts

Employers must include the registered names of their employees in employment contracts. This constitutes structural discrimination for many gender-diverse people whose preferred name and gender differ from the official data (see 2.3). Employees with a legal gender marker "diverse" or no gender status are entitled to employment contracts in which they are addressed in accordance with their legal gender marker. When drawing up employment contracts, the following options are available for rendering them more inclusive for gender-diverse employees. It is recommended that **employment contracts are generally gender-neutral**. Specifically, "Ms", "Mr" and other gendered forms of address should be completely eliminated. Gender-neutral terms such as "the employed person" or "the employee" should be preferred and gender-neutral wording should be used throughout (see subsection 3.4). If the preferred first name of the employee differs from the registered name, the option should be provided to include it in the contract. For example, the registered name can **be shown in parentheses after the preferred name**. If gender-neutral contracts cannot be implemented for all employees, they should at least be given the choice of whether they want a gender-neutral employment contract or an employment contract in which they are addressed as women or men.

---

54   http://ag-trans-hopo.org/Materialsammlung/Material_Broschuere/Broschuere_Inter_und_Trans_an_der_Hochschule_-_Anforderungen_an_die_IT-Systeme.pdf#page=1

For the consistent implementation of anti-discrimination policy, people with no gender status or a "diverse" legal gender marker must not be asked for proof of their legal gender marker. "This is because it constitutes direct discrimination, given that no proof is required of people who indicate 'male' or 'female' as their legal gender marker. The same applies in individual cases if a person indicates 'female' or 'male' and is asked to provide proof of their gender due to their physical appearance" (Kasten 2019, page 16).

Use of self-determined information and data protection measures

If a person's registered first name and gender are inconsistent with their preferred first name and gender, they should be given the option of including their self-determined information in their **personnel records**. The preferred first name and gender must be used in **all daily communications in the workplace** and for setting up email, profiles and login data. Ideally, the human resources administration software should provide the option of entering the preferred identification in addition to the registered identification. If this is not the case, the IT service provider or the IT department should be assigned the task of enabling this option (see info boxes on page 71). Until the solution is fully implemented, a second profile can be created using the preferred identification, which is linked to the profile containing the registered identification. Another alternative is to enter the preferred first name and gender as a note or in a blank field in the registered personnel file. The human resource department should inform the IT department that the **preferred identification data should always be used** in such cases. Likewise, management must ensure that **old and new documents are not linked**.

For gender-diverse employees with a legal gender marker "diverse" or no gender status or for employees whose registered identification differs from their preferred identification, special precautions need to be taken in order to ensure compliance with the GDPR and the German Federal Data Protection Act. In such cases, a needs assessment should be made between the human resource department and the employees in question with a consensual agreement on the **confidential handling of their officially registered genders and names**. This applies to all documents and administrative procedures that provide information on registered first names and genders, such as employment contracts, payroll, medical certificates and health insurance, social security data, flight ticket reservations and bank details. It can be useful for the needs assessment to draw up a list of all documents containing the registered data that are processed by the human resources department.

In the discussion, the gender-diverse person should be informed as to who has access to the personal data and be assured of the strict confidentiality of this data. Pursuant to the GDPR, the data subject must be informed whether and for what reason personal data is shared internally or externally and for how long they will be stored. The concerns and needs of the gender-diverse person should be heard in the discussion and not discussed separately from the agreements. Employers can ensure their employees' legal right to data protection by referring to **experiences from other areas that are legally sensitive in terms of data protection**, such as the handling of medical information in personnel records. Other options include sealing documents in **double envelopes**, obtaining **extra consent** to view documents or sending letters in **an extra envelope** with the preferred name.

"There is always an indication when a person's full name as per their ID has to be provided somewhere, but people here also talk about it with whatever authority they are dealing with and if the full name as per their ID or an incorrect form of address is written on a letter, then this is handed over personally, for instance, and not simply left in the mailbox where everyone can see it. Everyone is aware that it's some-thing sensitive"

(Interview with non-governmental organisation, 2020).

As the quote indicates, transferring data to external authorities and services poses a particular challenge. Even if employers cannot directly change the way third parties handle gender-related data, they can still insist on or at least encourage the use of gender-neutral wording and forms of address.

"In our case, there is also an external effect: For example, efforts are being made to ensure that payslips (if they don't already include the name used, for legal reasons) at least use the correct form of address. This also has an effect externally and others [that is, the gender-diverse person doesn't have to get involved] are dealing with the payroll office."

(Interview with non-governmental organisation, 2020).

References and certificates

Many employers are unsure whether they can use preferred first names in **references and certificates** if these are inconsistent with registered information. Under German law, it is **not a falsification of documents** if a name other than the officially registered name is used (see Augstein 2013). Employers can produce references and certificates using the preferred form of address and first name of gender-diverse people without any problems or fears of violating legal requirements: "This is neither a falsification of documents nor a false declaration. It is only a falsification of documents if it is unclear who issued the document. [...] Nor does it constitute false certification. The aim of the issued certificate is not to declare that the first name provided corresponds to the first name in the birth register. With employment refer-ences, the aim is to certify the performance of professional duties" (Kasten 2019, page 19).

Moreover, **gender-neutral employment references and certificates** can also be issued. One simple option is to eliminate all forms of gendered address and wording, use gender-neutral language, and refer only to the first and last names (Sabina Ahmed instead of Ms Ahmed). Even gender-diverse employees in manage-ment or executive positions can **sign contracts with their preferred names** without any legal difficulties.

"As managing director, I was able to sign contracts as a woman right away, even without any legal changes, so it's nonsense that it can't be done. To say that it's fraudulent is also nonsense. I haven't deliberately cheated anyone. All I've done is sign my name, which is completely fine and not problematic from a legal point of view. It's all just a pretext to cover up a person's own complacency and laziness"

(Interview with medium-sized company, 2020).

The **first name and title** in references and certificates that have already been drawn up **can also be changed** afterwards without any problems under private law. The new certificate remains the same as the original document in terms of content; only the name is changed. The original issue date must also be the same. The reason for keeping the original issue date is also to prevent the person from suffering any long-term disadvantages. If gender-diverse employees change their registered details, they are entitled to have their **certificates reissued** under the employer's duty of care (Fuchs et al. 2017, page 22). University certificates must also be reissued with the date of the original certificate upon submission of a court decision on a change of first name. The original certificate will be revoked. Different rules apply to public service, for which the new documents must be issued as **a duplicate** bearing the current date. Furthermore, the content should remain unchanged and there is no need to specify any reasons for the reissue. If the original signatory is no longer in office, "sgd" should be indicated in order to avoid liability for prosecution pursuant to Section 132 of the German Civil Code (Fuchs et al. 2017, pages 21–22).

A transparent and easily accessible procedure for modifying references and certificates should be set up for both current and former employees, and any employees involved with staffing should be familiar with this procedure, meaning other supervisors and the human resources department. For example, a form explaining how to submit a request for the modification of documents can be made available.

MODULE 11: Work organisation tools

Work organisation tools means all **applications and systems that are used in day-to-day work for communication and coordination purposes**. Examples include email addresses, intranet, calendars, time keeping systems, phone books, participant lists, file sharing or document editing platforms, etc. Every workplace has its own way of using and connecting these systems. In some cases, data from personnel records is input directly into these applications and systems, which means that any changes to data must be coordinated with the human resource department. To ensure that official gender-related data is handled confidentially, it is best for the applications to **function independently of the personnel records or human resource administration software** and to allow the users to enter and change the data themselves.

Such tools can have discriminatory effects on gender-diverse employees because they usually need profiles or login data to function, and these contain information about first names and in some cases even gender. This information is publicly visible to other employees on websites or in directories. For this reason, risks of discrimination must be identified and minimised when designing and implementing systems and applications.

It must be clear to everyone that the **information is provided by the user based on self-identification**, regardless of what is stated in the person's ID. It helps to provide a brief explanation on forms or input screens about the meaning of the categories, why they are collected and how the data is used. This can be done using pop-ups or mouseover functions.

For **automated messages**, it is advisable to use **gender-neutral language** and gender-neutral forms of address, for example, "Hello Marta González! Your password has been updated." This is particularly important if applications or systems are not yet equipped to acknowledge gender-diverse employees, which is the case if they do not contain any options such as "diverse" or "prefer not to say". The forms or input screens themselves should also be gender-neutral. For example, not "department chairman" or "department chairwoman" but "department chair" (see also subsection 3.4).

Questions in forms and input screens should be **adapted to the actual purpose**. In many cases, it becomes clear that when asking information about a person's gender category, the information actually sought is how to address that person. If there is a need to address employees by a gendered title in workplace communications, they should not be asked for their gender, but rather for their preferred form of address and/or pronoun. The option "no gendered title" or "no pronouns" should also be displayed in input screens. Gender-diverse people may find it helpful if a blank field is provided where they can enter the title and pronoun of their choice.

If both the title and gender are requested, **at least the officially recognised genders** (f/m/d/x or f/m/d/prefer not to say) should be offered as options. Since the official categories "diverse" and "prefer not to say" provide little information on a person's actual gender, **more options should be provided**: "m/f/d/x/trans*/inter*/non-binary/cis/dyadic/prefer not to say/blank field". Users should be able to enter more than one answer and this option should be explicitly stated. Allowing for more gender-diverse options in forms is not only more inclusive for gender-diverse people, but also contributes to overall awareness and visibility.

In cases where genders or first names need to correspond to registered information, this should be clearly stated. For example: "gender/first name according to your registered data" or "gender/first name according your identity document".

All gender inclusive forms and input screens

Example 1: Job application form

Last name, first name:

Write the first name with which you would like us to address you in future communications. If your documents display additional or other first names, we will give priority to the first name you enter here.

_____

Title:

Please indicate how you would like us to address you during the application process.

☐ Ms   ☐ Mr   ☐ First name Last name (Do not use gendered title)

☐ The following title: _____

Gender:

This information is optional. Select the answers that best describe your gender. You may select more than one answer. Please provide your consent to the use of your data by signing the following statement: I hereby consent to the processing of this data for the purpose of determining which groups are over- or underrepresented by our applicants. This gender data is confidential, will be anonymised in further processing and will not be associated with your application.

_____
Signature

☐ female*   ☐ male*   ☐ diverse   ☐ prefer not to say

☐ _____

Example 2: Meeting registration

Last name, first name

Enter your first name and last name as you would like it to appear on your name tag and on the website.

_____

Preferred title

Enter your preferred title, which will be used in the meeting documents and will appear before your name on the name tag.

☐ Ms   ☐ Mr   ☐ none (first name last name)

☐ The following title: _____

Title

Please enter your titles if you wish to use any. These will be placed between your personal title and first name in the meeting documents and on your name tag.

Preferred pronoun

Enter the pronoun by which you would like to be addressed. It will be indicated in the meeting documents and on your name tag.

☐ she   ☐ he   ☐ no pronoun (address me by my first and last names)

☐ The following pronoun: _____

Gender

Gender information is optional and based on self-determination. However, the information will help us to better address the overall needs of the participants and to become aware of any exclusions. You may select more than one answer.

☐ female*   ☐ male*   ☐ diverse   ☐ prefer not to say

☐ inter*   ☐ trans*   ☐ non-binary   ☐ cis (not trans*)   ☐ dyadic (not inter*)

☐ other: _____

Additional recommendations (in English)[55]:

— Recommendations for designing online forms[56]

— Good and bad practices: Gender and pronouns in online forms[57]

---

55   These recommendations are intended to provide examples and do not take the GDPR requirements into account. They may need to be adapted to the German legal context.

56   https://uxdesign.cc/designing-forms-for-gender-diversity-and-inclusion-d8194cf1f51

57   https://docs.google.com/document/d/15aYbXeCw7PUCm2O-dg7l7cmuCQdIIAdFXzYIusRKh2A/edit

MODULE 12: Change of first name and gender information

It should be possible to **change a person's name and gender** in the personnel records and in all work organisation tools. A **centralised responsible functionary** should be appointed to implement these changes, such as employees in the human resource department or equality officers. The responsible functionary should accept and process applications for modification according to a predefined, clearly communicated procedure and then inform the relevant departments of the change. If not all of the relevant bodies are digitally connected, they can be informed by a simple letter from the centralised responsible functionary. Based on this letter, the modifications should be made by the relevant bodies **without requiring further proof**. The procedure should be made as simple, transparent and accessible as possible for gender-diverse employees. It may be useful to provide two different forms depending on whether the change is made following formal recognition or without formal recognition. In all cases, gender-diverse employees should receive support in communicating name changes within the team (see also subsection 3.4).

If the registered data have changed in accordance with the Transsexuals Act or the Civil Status Act, employers are legally required to implement the changes in the personnel records **immediately after they have been informed** and to report them to social security. Another option for gender-diverse people is the supplement ID card[58] issued by Deutsche Gesellschaft für Transidentität und Intersexualität (German Society for Transidentity and Intersexuality – dgti), which is recognised by the German Federal Ministry of the Interior.[59] The **supplement** contains the person's preferred first name, the gender and pronouns, a current photo and the ID number of the official ID card. It should also be recognised by financial offices, banks, telephone providers and insurance companies. The self-determined information on the dgti supplementary ID card can be included in the personnel records – following the same procedure as official changes.
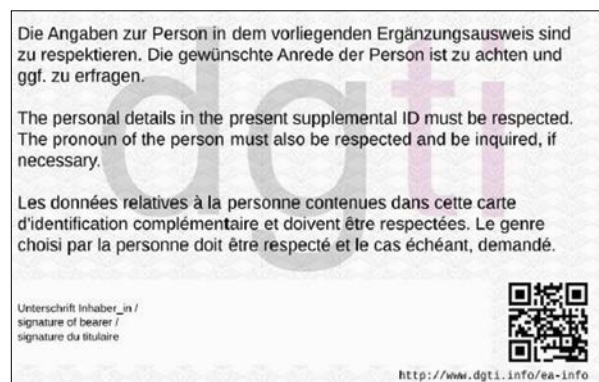
However, non-discrimination can only be effective if first names and gender information in the personnel records and work organisation tools **can also be changed independently of the legal procedure**. This is already offered at many major companies: Gender-diverse employees at Allianz, Bayer, Deutsche Bank, BASF, AXA and SAP can change their first names and genders before or regardless of whether they have been officially recognised (Uhlala Group 2020).

---

58   https://dgti.org/ergaenzungsausweis.html
59   The recognition of the supplementary ID card by the German Ministry of the Interior is important because it will then also be recognised by other authorities such as the police, tax office or customs.

Many gender-diverse people do not meet the discriminatory requirements of Transsexuals Act or Civil Status Act or consider them unreasonable (see subsections 2.1 and 2.3). It is a big relief for many gender-diverse people to be able to use their preferred name in the workplace, which can also help in the "real-life test".[60] Knowledge that the old or registered first name and gender information have been changed is highly confidential and must be treated as such. Managers and employees need to be informed about this when the change is made so that they can address the gender-diverse person correctly going forward.

> *"People are then allowed to use their chosen names everywhere (even if the name has not yet been officially changed), so the chosen name can also be used in the shift schedule or even for the name embroidered on their clothes, for example. The only thing that has to be done is to sign an agreement with the person if the name has not yet been changed, for legal reasons under the nursing care laws, which specifies that the name in the passport belongs to the person with the same name, in other words, that it is the same person. A copy is kept only in the personnel office, nobody else sees it, and the person can then simply use their name wherever they want."*
>
> (Interview with medium-sized company, 2020).

Since employers usually do not know whether the change is pursuant to the Civil Status Act or the Transsexuals Act, it is recommended that the **confidentiality criteria of the prohibition of disclosure be based on the Transsexuals Act in all cases**. According to the prohibition of disclosure, the previous first names and gender status may not be disclosed, that is, communicated or researched without the person's consent, unless required by special reasons of public interest or a legal interest can be established. The **principle of proportionality** applies to documents in the **digital archive**, such as old emails, reports with names or old telephone lists. It should be agreed with the gender-diverse person which documents are to be updated. Within this context, risks of discrimination, technical feasibility and the capacities of the IT department (or other responsible body) must be considered.

---

60   The Health Insurance Medical Service (Medizinischer Dienst der Krankenversicherung – MDK) requires a so-called "real-life test": A trans* person lives in the gender they have chosen before or without access to medical measures or legal recognition for a certain period of time. The real-life test, which is also carried out in the workplace, is considered as proof to the health insurance provider that the trans* person can "live" in the gender identity they have chosen.

Checklist for implementing changes to first name and legal gender marker

Documents	Official gender certificate/ dgti ID card		Without formal recognition	
Personnel records/HR administration				
Master data	Replace with new information.	☐	Record the new information in addition to the official data and use it in all internal communications.	☐
Employment contract	Reissue with the new information. Offer to use gender-neutral title and language in the employment contract.	☐	Reissue with the new information in addition to the official data. Offer to use gender-neutral title and language in the employment contract.	☐
Work instructions and appraisals	Draw up using the new information effective immediately. Reissue old documents with the new information. (If not possible, take measures to maintain confidentiality.) Offer to use gender-neutral title and language in the document.	☐	Draw up using the new information effective immediately. Reissue old documents with the new information or take measures to maintain confidentiality. Offer to use gender-neutral title and language in the document.	☐
Payroll	Draw up using the new information effective immediately. If possible, reissue old documents with the new information. (If not possible, take measures to maintain confidentiality.) Offer to use a gender-neutral title.	☐	Confidentiality measures. Offer to use a gender-neutral title in future documents.	☐
Mandatory notification to social security	Draw up using the new information effective immediately. If possible, reissue old documents with the new information or take measures to maintain confidentiality. Offer to use a gender-neutral title.	☐	Confidentiality measures. Offer to use a gender-neutral title in future documents.	☐
Employment references	Reissue with the new information. Offer to use gender-neutral language and title. For certificates from previous employment relationships, take measures to maintain confidentiality.	☐	Reissue with the new information. Offer to use gender-neutral language and title. For certificates from previous employment relationships, take measures to maintain confidentiality.	☐

Other measures	
Make copies of documents with the new information (if available), for example, identity document, birth certificate, references from previous employers, diplomas, etc. replace the old ones or, in public service, add a corrected copy.	☐
Documents with old first names and gender markers in personnel records should be protected using one or more of the following confidentiality measures: ▬ Use of closed or sealed envelopes within the personnel file ▬ Storage in specially secured cabinets/rooms ▬ Duty of employees to note when documents have been viewed ▬ Transfer of the personnel file only with receipt ▬ Introduction	☐
Destroy documents containing old information, if operations permit.	☐

For changes without formal recognition	
"Double envelope" approach for postal deliveries bearing official data: the official letter in the inner envelope and the current name on the outer envelope.	☐

Work organisation tools		
Email account	Set up new account/change using the new information.	☐
Login data	Create new login/change using the new information.	☐
Schedules and calendars	Set up new schedules and calendars/change using the new information.	☐
Telephone directories	Create new directories/change using the new information.	☐
Work time recording	Set up new account/change using the new information.	☐
Employee ID card	Create new ID card using the new information.	☐
Name tags, nameplates	Create new name tags and nameplates/change using the new information.	☐
Names on websites and intranet	Change using the new information.	☐
Website photos and Intranet	Replace.	☐
Organisation charts	Create new charts/change using the new information.	☐
Names in working documents, are used on a regular basis	Change retroactively or reissue using the new information. Ensure correct title and/or pronouns in the documents. Clarify with the employee.	☐

MODULE 13: Gender-related data for quotas

The presence of gender-diverse people in occupation and employment may increase when quotas and other support measures are extended to include them, but there are a number of risks of discrimination and **difficulties in implementation**. Some gender-diverse people deliberately opt against being publicly seen as any gender apart from female or male. Identification as diverse, no gender status, inter*, trans* or non-binary increases people's exposure to hostility and harassment.

Quotas are a measure of gender equality, which have so far been understood **mainly as promoting women**.[61] The intention behind quotas as they were previously applied was to compensate for the under-representation of cis dyadic women or establish a parity distribution in committees and decision-making positions. The corresponding legal regulations are still based on the assumption that there are only two genders and speak only of "women" and "men" or of "a gender minority". For example, the German Federal Act on Gender Equality (BGleiG) and the German Federal Act on Appointment to Bodies (BGremBG) apply in the civil service. The Act on Equal Participation of Women and Men in Leadership Positions (FüPoG) applies in the private and other sectors. The Works Constitution Act (BetrVG) also contains provisions for the composition of works councils relating to the gender of the employees. A definitive answer as to how quota regulations and corresponding laws should be applied to gender-diverse people cannot be provided at this time, as the case law and legal debate are still ongoing (see Plett 2019; Dutta & Fornasier 2020). What is certain, however, is that **modifications are required** following the decision of the German Federal Constitutional Court of 10 October 2017 and the current status of the Civil Status Act (see subsection 2.3).

Rules that strive towards the equal representation of women* and men* should not result in the exclusion of gender-diverse employees. There are a number of approaches for putting this into practice. One way to take gender-diverse people into account is to **set minimum requirements instead of fixed percentages**, for example, 45 per cent women*, 45 per cent men* and a buffer of 10 per cent that can include gender-diverse employees. Another option for equal employment **is a 50:50 rule for women* and men* that allows gender-diverse people to choose** the list in which they would like to be included. In this case, it is important to ensure that the people can use their preferred name and, if necessary, their gender-neutral title and pronouns on the list and after making their choice. For committees set up on a pro rata basis according to their numbers in the staff, gender-diverse employees should be entitled to a **minimum representation**. This option offers a solution for workplaces in which the percentage of gender-diverse people cannot be determined because the IT systems have not yet been adapted to do so. **Gender-diverse employees** should in any case be granted the **right to representation**.

The self-determined gender should also apply to quota regulations and gender-based support measures irrespective of any formal gender status. This is always the practice with cis dyadic people, since applications do not ask for a passport or birth certificate to confirm their gender. The introduction of a requirement to prove one's identity within the context of extending measures to include gender-diverse employees would therefore represent indirect discrimination.

---

61   This is because gender equality instruments are still mainly considered as a way for promote cis dyadic women, or in the best case as a way to promote women in a more plural sense. These exclusions are partly due to the fact that the instruments for determining gender inequality are based on a binary understanding of gender:
"The interest in alternative sexes and genders, especially transgender and intersex gender identities, has not yet found expression in the strictly bi-sexed and bi-gendered conception of gender mainstreaming. The existence of binary gender analysis tools could indeed be read as a symbolic act of de-legitimising transgender and intersex lives and experiences." (Sauer 2018, page 126)

All gender inclusive wording of gender equality measures

Any internal gender-related support measures and quotas must also be designed to include gender-diverse people. The following examples show how existing regulations can be reworded or changed:

"The regulation is aimed at promoting the equal representation of ~~women and men~~"
→ *"of all genders"*, or *"of women, men and gender-diverse people"*

"Priority ~~to the underrepresented gender~~"
→ *"of the underrepresented genders"*, *"of women, inter*, trans*, and (other) non-binary people, those with the legal gender marker "diverse" or no gender status"*

"The Commission should be staffed by ~~equal numbers of women and men as far as possible~~"
→ *"women and men in equal numbers and seek to represent a reasonable share of gender-diverse people"*

"Women and men are considered underrepresented if their proportion is below 40 out of 100"
→ add *"and for gender-diverse people, if their proportion is less than five per cent"* or *"and for gender-diverse people for as long as none are employed"*

"In job advertisements, ~~the underrepresented gender that must~~ be specifically addressed. It should be noted that ~~people of the underrepresented gender~~ are given priority if several candidates are equally qualified and have the same skills and professional performance"
→ "In job advertisements, *the underrepresented genders, including gender-diverse people, must* be specifically addressed. It should be noted that *people of the underrepresented genders, including gender-diverse people*, are given priority if several candidates are equally qualified and have the same skills and professional performance"

In fact, there are currently no reliable **data or statistics** on the percentage of the total population that is gender-diverse. Calculations based on the legal gender marker "diverse" or the procedures of the Transsexuals Act must be viewed with caution. Firstly, the 2018 amendment to the Civil Status Act is still very recent. Secondly, the stipulated requirements for changing a legal gender marker in the Transsexuals Act and Civil Status Act exclude many gender-diverse people. We must also keep in mind that there is still a great deal of legal uncertainty and related concerns among gender-diverse people regarding the new civil status law, while many reject the term "diverse", especially inter* people and communities. For these reasons, **quotas or support measures without defined percentages** that still strive to ensure the representation of gender-diverse people appear to be the most sensible option in terms of non-discrimination at the moment.

3.4 Language and communication

Language is an active means of implementing anti-discrimination policy in the context of diversity. An **inclusive use of language** makes it clear that recognition and visibility of different existences and realities can be accorded or denied via language. The use of inclusive language expresses a positive attitude towards a respectful co-existence of diversity in equality. The discrimination-sensitive use of language and communication begins with the realisation that language does not represent the world in a neutral way, but rather that the world is constantly reproduced through language (Hunter 1999; Keller 2007), which is why it can also be changed.

Binary and heteronormative gender notions are not only conveyed through statements and concepts. Instead, people are constantly subject to assumptions about their gender and gender identities through the use of articles, declinations and pronouns in certain languages with grammatical gender, such as German (Butler 1991). When group names are used ("the women"), people are divided into generalised categories and thereby homogenised ("women are like this and like that"). Moreover, power relations are conveyed and articulated by means of linguistic terms, for example, through the use of swear words. This means that discrimination against women*, people with disabilities, Black people and people of colour, LGBTIQ people, migrants, etc. is expressed through the **use of language and linguistic structures**. The way we talk about people and the terms and expressions we use in doing so play a role in reproducing existing social intersectional power relations or challenging them.

It is essential for the recognition of gender-diverse people that people learn and use all gender inclusive language. This means that we need to respect **collective self-designations, use preferred first names, forms of address and pronouns** and **establish a language that reflects gender diversity**. The use of all gender inclusive language may seem awkward at first and at times difficult, but it should not be renounced for the sake of convenience. **All gender inclusive language** is a fundamental dimension of anti-discrimination policy and belongs therefore to the standards of professionalism. Differences in the language skills of employees and the needs of people with learning difficulties or other forms of disability are not grounds for dispensing with all gender inclusive language. **Gender diversity can be communicated in simplified language**[62] and taught to people who are still learning the language. A good example is the German Institute for Human Rights, which published the position paper "More rights for intergender and transgender people"[63] in simplified German, and also the association Leicht Lesen (Easy Reading) with its brochure "Woman. Man. And much more"[64] in simplified German.

---

62   "Easy read" is a language format that makes information accessible to people with learning difficulties and allows them to participate in communication. The Leichte Sprache network (www.leichte-sprache.org/) contains the rules for easy language in German and offers resources and advice on their website.

63   https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/POSITION/Position_13_Mehr_Rechte_fuer_inter-geschlechtliche_und_trans-geschlechtliche_Menschen.pdf

64   http://www.leichtlesen.at/wp-content/uploads/2017/06/frau-mann-undnochvielmehr_auflage22018.pdf

MODULE 14: Basic principles of all gender inclusive language and communication

Self-designations

The terms and wording used until now to describe gender-diverse people often **originate in pathologising concepts from law and medicine** (for example, "transsexuality"). These terms establish cis dyadic genders and gender identities as the only healthy and natural norm and categorise everything else as deviant, diseased or disordered and requiring regulation and normalisation. Terms that **appear to provide a neutral description** can reproduce forms of violence against gender-diverse people, thereby normalising human rights violations. An example of the linguistically violent yet downplayed discrimination against inter* persons is the use of the terms "sex reassignment" or "gender assigning" when referring to non-consensual, medically unnecessary operations on inter* people. These supposedly neutral terms belie the fact that "healthy physical features are irreversibly altered and that these operations have a permanent physical and psychological dimension" (Ghattas et al. 2015, page 11). This is better expressed as "**forced gender normalising intervention**".

Inter*, trans* and non-binary communities develop and apply collective self-designations and identifications, terms, wording and communication practices that express the existences of gender-diverse people affirmatively from their own experiences, beyond gender binary structures and norms. The TransInterQueer association has released two publications on **discrimination-sensitive language in the context of inter and trans* people**: Inter* und Sprache (Inter* and Language)[65] and Trans* in den Medien (Trans* in the Media).[66] They indicate which terms and phrases should be avoided and provide discrimination-sensitive alternatives (see 4. "Services section").

The goal of inclusive language is to develop a use of language that promotes the equality of all genders and gender identities and the respect of the rights to personal development, freedom of expression, self-determination and equal participation of all people. The use of **positive, life-affirming and community-based designations and terms** for gender-diverse people is a fundamental part of inclusive language that also applies to the workplace. This will ensure the recognition and inclusion of gender-diverse people as equal employees (see subsection 1.3).

Communication

Communication is more than the use of terms and all gender inclusive suffixes. All gender inclusive communication concerns both **the substance** of the statements and the **way employees communicate** with each other. Discrimination-sensitive communication behaviour raises questions such as: Who speaks longer in meetings? Who is interrupted or ignored? Who is taken seriously? Sensitisation to and awareness of hierarchically gendered patterns in communication are an important first step toward **equitable communication in the workplace**. Part of this means that dominant behaviour in communication and interruptions need to be taken seriously by introducing targeted interventions, such as moderation in meetings, the assignment of tasks on a rotating basis or time limits on speeches. Derogatory, aggressive, mocking and authoritarian communication styles in general are detrimental to a positive and appreciative interaction and working climate among all employees. The management should lead by example and actively promote valorising, discrimination-sensitive and all gender inclusive communication practices.

---

65   www.transinterqueer.org/download/Publikationen/InterUndSprache_A_Z.pdf
66   www.transinterqueer.org/download/Publikationen/TrIQ_Journalist_innen-2. Aufl.-web(2).pdf

Gender diversity in language use

When speaking to other people for whom it is clear which gendered form of address they use, they can be addressed accordingly as gender-neutral, female or male. **Individuals can therefore be addressed as she/Ms, he/Mr or they/Mx if it is clear** that they would like to be addressed in this way.

The use of all gender inclusive language can also mean **completely avoiding pronouns and forms of address** by simply using first and possibly last name or other non-binary personal pronouns (more on this in module 15). **All gender inclusive options should always be used in group situations**. Neutral wording and sentence constructions can help avoid unnecessary gendering.

Employers responsible for implementation should use a wide range of resources to raise awareness and establish practices. Exchanging ideas and networking also help to develop tailored solutions and stay up to date. You can find additional practical guides, examples and explanations on the use of gender-inclusive language in the resources in the following info box:

Resources on all gender inclusive language

- The gender dictionary[67] contains searchable terms and gender-neutral options. In addition, it provides help with wording[68] to avoid unnecessary gendering.

- The Gend-O-Mat[69] of the Bauhaus-Universität Weimar is a creative interactive guide that uses examples to illustrate the importance of all gender inclusive language.

- Prout at work has prepared a guide for gender-friendly and inclusive language[70] specifically for the professional context, which offers practical assistance in German and English while also addressing basic theory. It contains checklists and additional resources.

- A brief and concise introduction with examples is provided in the information sheet Gender-friendly language as demonstrated using the gender star*[71] of the IQ Competence Centre for Intercultural Opening and Anti-Discrimination.

- Sprache..Bewusst.Sprach.Gerecht (Language.Aware.Language.Fair)[72] offers workshops and training courses (digital and in person) on gender-friendly language. In addition, freelancers or small companies and associations can find information on where to book consultations, workshops and other resources on discrimination-sensitive and all gender inclusive language. Queries on this subject can also be made at local inter* and trans* consulting or information centres. They often provide proven expertise and training courses.

---

67   https://geschicktgendern.de/
68   https://geschicktgendern.de/tipps-und-tricks/geschicktes-gendergerechtes-formulieren/
69   https://www.uni-weimar.de/projekte/gend-o-mat/1
70   https://www.proutatwork.de/wp-content/uploads/2019/10/PAW_HowTo_Nr.3_GenderSprache_Web_10-2019.pdf
71   https://www.netzwerk-iq.de/fileadmin/Redaktion/Downloads/Fachstelle_IKA/Trainings/FS_IKA_Infopapier_Sprachsensibel_Gender.pdf
72   https://www.sprachbewusst.de/leistungen/workshops

MODULE 15: Use of pronouns and forms of address

Asking for and communicating pronouns at work

In interactions, people make assumptions about the gender of other people. This can never be completely avoided. But one's own perception does not necessarily coincide with the gender and gender identity of the other person. What counts is **the person's self-determination and the information they provide about themselves**, including the pronoun and form of address they prefer to use. This also means that some people change their pronouns and title, or employees in some cases only mention their preferred pronoun and title when all gender inclusive language is introduced or the option of using all gender inclusive language is communicated.

To ensure that people treat each other with respect, they need to be given the opportunity to communicate preferred pronouns and names at work. During **introductions**, you can say your own name and preferred pronoun, and then ask: "My name is Leo Zanjani, my pronoun is they. If you are not sure how to use it, feel free to ask me. Do you have a preferred pronoun?" This creates a culture in which it becomes normal for one's wants and needs in terms of preferred forms of address to be communicated. If the person's preferred pronoun is not known, **gendered forms of address can be avoided in favour of all gender inclusive language**. During a round of introductions, the moderator can encourage people to share their preferred pronouns, if they wish to do so. The moderator should otherwise try to use **gender-neutral forms of address**, for example, by calling people by their first and last names instead of Ms/Mr and last name. It is recommended that the moderator of the discussion demonstrate this in their own introduction. "Hello, my name is xx and you can refer to me as Aisha Sokolka. The moderator should inform the group that **stating one's pronouns is voluntary**. This is important so that people are not put in the position of having to out themselves or give a false pronoun, because not all gender-diverse employees feel safe enough to address their gender identity openly in the workplace.

Many people are not **used to talking about pronouns** and ask others for them. The use of gender-neutral titles or no title is also new for many. It does not always work and that people can make mistakes, but that is to be expected. If that happens, simply offer a brief apology without any lengthy explanations as to why it did not work, and then add the correct pronouns or forms of address.

"It is important to respect pronouns and forms of address and to use a gender-sensitive language. With regard to the pronouns – especially with people who are outing themselves mid-career – I think it's okay if work colleagues don't always get it right. But it would be nice if they just apologised and then used the correct form of address. And if they are corrected, they should just say "Oh, I'm sorry" and then say it the right way. The desire to learn and to show respect for trans*, inter* and non-binary persons is what's really important."

(Interview with inter* trans* advocacy group 2020).

However, when employees sometimes or always refuse to use the correct pronouns, this is a problem and constitutes discrimination. The management should make it clear that all gender inclusive language and respect for all employees are a **key part of professional interactions in the workplace**. The management and those in charge must take it seriously if people consistently refuse to address someone by their preferred pronouns.

A low-threshold option that increases visibility is to use **an email signature to communicate one's pronouns and title** and invite others to share their preferred pronouns. A more compact version is for employees to put their pronouns in brackets after their name: "Michael_a Troita (she)." Another alternative is to include a brief explanatory sentence for the email recipient in the context of all gender inclusive forms of address, for example: "At Company X, we are committed to gender diversity. We always strive to use gender-neutral language. Feel free to let me/us know what your pronouns are and how you would like to be addressed. Please address me using gender-neutral language, such as hello, first and last name/dear first and last name."

Team leaders can lead by example. For example, they can send a brief email to the team informing them that they are introducing an email signature with preferred pronouns so that other employees will be encouraged to do the same. **Pronouns can be added as an option** on public profiles, in contact information on websites or business cards, or on name cards at meetings or conferences.

Use correct pronouns and forms of address

When addressing **groups, inclusive and/or gender-neutral variants should be used**, for example: "Dear employees, dear all, dear colleagues." The same applies to individual messages if the recipient's preferred form of address is not known. For example: "Hello, first name last name, dear first name last name."

In English, the pronouns and nouns assign a binary sex to people and forms of address. Most people feel offended when they are spoken to using a form of address that does not correspond to their gender identity. Just as for cis dyadic women and men, the **pronouns and forms of address of gender-diverse employees must also be respected**. It is still not a common practice to address people by their first and last names or Mx. instead of Ms/Mr. But it is a matter of getting used to it and should always at least be an available option. It is important to **develop an awareness** of the appropriate use of all gender inclusive language, including the use of correct pronouns and forms of address, which plays a key role in the recognition or non-recognition of the gender identity of others.

Until it is determined how a person prefers to be addressed, a **basically gender-neutral approach is the only inclusive option**. Many employees will continue to prefer the binary approach of Ms/she or Mr/he. Others will welcome gender-neutral forms of address and use then over the long term. There are no pronouns or forms of address apart from the binary ones which are established among the entire English-speaking world. However, Inter*, trans* and (other) non-binary people now use a whole range of gender-neutral options. Some employees may be using **the following pronouns**:

Examples of non-binary pronouns

	Subject pronouns	Indirect pronouns	Direct pronouns	Possessive pronouns
they (generic singular pronoun)	They use gender-neutral pronouns.	We should support them in this.	Feel free to invite them.	I have found their gift.

Selected examples taken from the pronoun list[73] of the Nonbinary wiki

If a colleague says that from now on she or he would like to be addressed with a certain pronoun, their preference should be respected and accepted. People can **always ask how the pronoun is used if they are unsure**.

"Neutral or non-binary pronouns and forms of speech are unfamiliar to many at first and can seem cumbersome and difficult to read. But the problem is not that people need forms of speech that allow them to feel addressed in the correct way, but rather that the German language has limitations and, in its previous form, fails to acknowledge entire groups of people" (Fuchs et al. 2017, page 22).

Communication of new names and titles

It is a **challenge** for many gender-diverse people to communicate their preferred name and title. First of all, many gender-diverse people are preoccupied with stressful **questions and fears regarding the reactions of superiors and colleagues**. Superiors can help gender-diverse individuals feel supported and ensure that the change is positively received. With this in mind, management should clearly demonstrate a positive, supportive attitude towards gender inclusive language. Employees should be able to speak to management or other people they trust if they want to **communicate a name or pronoun change**. Management should familiarise itself with the conditions and procedures for handling formal and informal name changes in the administration and identify needs for change. It may help to speak with an inter* or trans* counselling centre in order to eliminate uncertainties and obtain answers to questions in a professional context. The person in charge can then go into the discussion with the gender-diverse person well prepared. When seeking information or advice, **measures should be taken to protect the privacy and anonymity of gender-diverse people**.

---

73   https://nibi.space/pronomen

Questions about name and title changes

- What are the concerns, wants and needs of the gender-diverse person? What kind of support do they want and what can be offered? How can management provide (visible) support?

- Which first names and pronouns should be used? From when, and in which contexts? Is the new first name officially registered or is it in progress?

- How should the change be communicated to the team? Does the person want to share it themselves, for example, by email or in a meeting? Should the superior bring up the subject and talk about it? If so, how and when? Should everyone find out about it at the same time or does the person first want to speak to certain colleagues personally? What other important information does the gender-diverse person want to share?

- A reference to gender diversity guidelines may also be provided in the communication to the colleagues. They explain that appreciative and respectful interactions are embedded in the principles of diversity and that discriminatory actions (such as insults, ridicule, non-compliance, etc.) will not be tolerated.

- In which situations are first names and forms of address used in everyday work? Who else should be informed in the workplace? It may help to go over which departments have data and documents that need to be updated (see the checklist in subsection 3.3, page 80 for help) in order to plan the changes. The person in charge can offer to help with or take over the task of communicating with other departments such as Human Resources or IT, which will allow the changes to be implemented faster if necessary.

- Identify additional needs for support: What potential situations may arise among colleagues or in the workplace in general that cause the person concern with regard to the change? Do they entail other changes and requirements, for example, in terms of the toilet situation?

MODULE 16: Implementation of all gender inclusive language

Many companies, government agencies, media and organisations already use gender inclusive language. This demonstrates that all gender inclusive language is feasible and that it is also becoming increasingly established **as a professional standard in the context of diversity and inclusion**.

> *"We got started and decided to use the gender gap. It has been in use in our internal communications since the beginning of the year. We came to the decision during a workshop with internal communications, HR and the diversity department. [...] In the internal communications department, we defined guidelines and then shared them; in other words, we wrote a recommendation document and made the decision together"*
>
> (Interview with large company, 2020).

It is very rare for the switch to all gender inclusive language to be made at all levels in the workplace at once. Some companies **begin by discussing it** with the managers before involving internal communications. The next step is often to switch to **inclusive communication in emails** and to introduce a signature (see Module 15) about all gender inclusive language. Small and medium-sized companies can start with these steps, even if resources are not always immediately available for in-depth training. Another step is to approach all gender inclusive language as an **action that is needed in the workplace**. It should be introduced by management and any responsible parties should be brought on board. The transition should be as participatory as possible with the clear objective of establishing an all gender inclusive corporate culture. In addition to the management level, all relevant departments should be involved, such as corporate communications, IT, human resources, works or staff council, public relations, the gender equality body or diversity management. Representatives from all departments and areas should have the opportunity to participate in the process, to express concerns and various needs and to find solutions that work within the actual day-to-day work context.

In the next step, research should be carried out on specific options for implementation and examples of all gender inclusive language and ideas collected. The stakeholders should **also discuss any challenges and difficulties specific to the company**. A concept for implementing all gender inclusive language developed in a participatory process inspires confidence to act and gives direction. External advice and support may make the process more productive. Examples of relevant questions for this process:

- Should the transition be addressed in all areas at the same time or should it be introduced gradually only in individual work areas?

- Should a specific variant of all gender inclusive language be defined or can several options be used at the same time?

- What are the rules or regulations that apply to official communications and publicly accessible written material? What are the rules that apply to internal communications and communication with customers and business partners? How should documents and forms be designed?

- Are there specific requirements that need to be taken into account, such as multiple languages, the use of digital text-to-speech applications, accessibility, etc.?

Once a **concept has been agreed upon**, implementation can begin. A list of tasks to be carried out should be drawn up and responsibilities should be clearly assigned. This includes **announcing changes** in all departments and areas, to all employees and, under certain circumstances, externally to the general public.

The following step is to **consistently adapt** written content, forms, documents and work contracts and make changes to IT systems. This creates **permanent visibility** and sends the message that the changes are based on a **professional attitude at the workplace** rather than an individual decision. The steps need to be taken successively so that the employees executing them do not become overwhelmed; for example, all new documents can use all gender inclusive language while old documents are gradually adapted.

Above all, adequate **awareness-raising measures and assistance should be made available to employees**. It may help to provide training on all gender inclusive language, especially for employees who write content or work in public relations. All employees should have **permanent access to instructions** (language guide, notices, circulars, handouts, flyers) that can be easily consulted on digital devices and in the workplace and are distributed via internal channels. It may help to **create opportunities for trying out and getting used to** all gender inclusive language in oral communications, such as team meetings or internal telephone calls.

> *"It's a learning process that takes place by using it in everyday normal language, in team meetings for instance. Listening to all gender inclusive language is also important, which is something that I have noticed through my own experience. If I want to speak in a gender-friendly way, it usually works and then I almost don't notice it at all. What I do tend to notice is when I start to use masculine language again"*
>
> (Interview with social services, 2020).

3.5 Gender-neutral sanitary facilities

When it comes to gender-neutral sanitary facilities, employers are often initially concerned that problems and conflicts will arise. Many reservations have to do with **the specific interior design**, but it is generally **the anticipated negative responses** from employees that cause greater concern. This shows that the difficulty in establishing gender-neutral toilets is not due to their actual implementation and use, but rather to the unquestioned notions and perceptions resulting from the heteronormative gender binary. What is forgotten in the emotionally charged confrontation is that **gender-neutral toilets and changing rooms have long been an unproblematic part of our everyday lives**. Toilets in homes are usually for all genders, whether for a small family or a shared flat. In shops or workplaces where there is only one toilet for everyone, it is also gender-neutral. Customers in shops try on clothes in changing rooms that are used by all genders. Toilets on board vehicles such as trains, buses or planes are only gender-neutral, and this has not posed any problems.

In 2017, an American website displayed a list of companies that offer gender-neutral toilets and had identified 160,000 companies within four months (Orlov 2017). Throughout Germany, more and more public toilets are being designed as gender-neutral facilities. Some examples are the Volkswagen Arena in Wolfsburg[74], Osnabrück Halle[75], the Berlin State Library[76], the Rhine-Waal University of Applied Sciences[77], the Versmold community hall[78], the University of Rostock[79], Hainberg-Gymnasium in Göttingen[80], a children's playground in Hamburg[81], and the Landshuter main station in Bavaria[82]. The following modules offer assistance and practical guidance on **how to introduce gender-neutral toilets in the workplace**.

MODULE 17: Need for gender-neutral sanitary facilities

The **best solution** to allow gender-diverse people to use sanitary facilities while minimising discrimination is to **make them gender-neutral**. In doing so, either all toilets can be designed as gender-neutral or toilets assigned to men and women can be maintained and a sufficient number of gender-neutral toilets made available to all genders. We explain exactly how this can be implemented for toilets in module 19, and for showers and changing rooms in module 20.

The German Ordinance on Workplaces (Arbeitsstättenverordnung – ArbStättV) does not explicitly provide for gender-neutral toilets, changing rooms or showers, since it was written within the binary framework of the old civil status law before 2018. However, given the dangers for gender-diverse people already listed in 2.2 in connection with using sanitary facilities and the employers' duty of care, now is the right time to establish gender-neutral sanitary facilities.

---

74   https://www.queer.de/detail.php?article_id=33207
75   https://www.hasepost.de/neue-unisextoiletten-und-aussenflaechen-in-der-osnabrueckhalle-149325/
76   https://twitter.com/sbb_news/status/1223218310684315651
77   https://www.instagram.com/p/BZuA33BjF9h/
78   https://www.haller-kreisblatt.de/lokal/versmold/22511842_Es-geht-voran-Gemeindehaus-bekommt-modernste-Technik-und-sogar-eine-Unisex-Toilette.html
79   https://www.instagram.com/p/Bv1eGgogidr/?utm_source=ig_web_copy_link
80   https://www.epochtimes.de/politik/deutschland/niedersachsen-gymansium-in-hannover-eroeffnet-erste-unisex-toilette-fuer-schueler-a2631525.html?tweet=1
81   https://www.mopo.de/hamburg/nach-komplettsanierung-bunter-pinkeln-in-planten-un-blomen-36573156
82   https://www.instagram.com/p/BwcjH7LHbPU/?utm_source=ig_web_copy_link

According to Sections 1 and 3 of the German Ordinance on Workplaces, **the safety, health protection and avoidance of physical and mental stress must be ensured for all employees** – and therefore also for gender-diverse employees. The use of gender-binary sanitary facilities poses a high risk of discrimination for many gender-diverse people. Studies have shown that many gender-diverse people are denied access to toilets, are accused of being in the "wrong" toilet and asked to leave or that they have been verbally or physically attacked (see subsection 2.2). The lack of protection of many gender-diverse people in gender-binary sanitary facilities turns these into "**fearful places**" and people avoid having to visit them by drinking and eating less (see Hoenes, Sauer & Fütty 2019). When gender-diverse people have to choose between toilets, showers or changing rooms for men* and women*, for many this represents a form of discrimination and unequal treatment. However, we should also mention that not all inter* or trans* people prefer gender-neutral toilets. This is why, in addition to gender-neutral toilets, the **use of gender-binary sanitary facilities without discrimination** must be promoted through awareness-raising and training. Gender-neutral toilets are basically about protecting the intimacy and privacy of everyone, including women*. This benefits not only gender-diverse people, but also all employees.

Gender-neutral sanitary facilities should in principle be implemented as a **preventive measure**, regardless of whether there are gender-diverse employees in the company who are "out". If the implementation of sanitary facilities for all genders is conditional on whether gender-diverse employees are outed, this already constitutes discrimination, because no one should be forced to disclose their gender identity.

All relevant departments should be involved in reorganising the sanitary facilities with a view to developing a long-term solution in the workplace. This includes works or staff councils, facility management, the disability officer, equality officers and other people in the company responsible for inclusion and diversity. The management's task is to support the transformation, to communicate the changes and to provide funding.

MODULE 18: Communication on gender-neutral toilets

The management should inform all employees about the plans to establish gender-neutral sanitary facilities. **Effective mediation in the workforce** creates openness and trust in the use of gender-neutral toilets and proactively reduces doubts, reservations, prejudices and concerns. Another way to increase visibility and awareness is to provide **permanent explanations on the doors**. Good examples are featured on the information pages of the Potsdam University of Applied Sciences[83] or the European University Viadrina in Frankfurt (Oder)[84]. Another example of communication on gender-neutral toilets is an interview on the subject with two of the people in charge at the company OTTO[85], which is published on its website.

---

83   https://www.fh-potsdam.de/informieren/organisation/gremienbeauftragte/beauftragte/gleichstellung/toiletten-fuer-alle/
84   https://www.europa-uni.de/de/struktur/gremien/beauftragte/gleichstellung/hinweise_alltag/unisex/index.html
85   https://www.otto.de/newsroom/de/kultur/genderneutrale-wcs-unisex-auf-dem-otto-campus-eroeffnet

The following points should be addressed in the communication on the introduction of gender-neutral toilets:

— **Why are sanitary facilities important for all genders?**
The communication must make it clear that the workplace is a place where gender inclusivity is important. It should refer to the equal treatment of all genders as required by law and to equal access to sanitary facilities: All people have the right to use a toilet and changing room that corresponds to their gender and gender identity and protects them from discrimination. It should point out the increased risk of discrimination for gender-diverse people when using gender-binary sanitary facilities. Furthermore, it should also mention that it is the duty of employers to prevent gender-based discrimination. It should be made clear that sanitary facilities for all genders is the only option that prevents discrimination for many gender-diverse people.

— **What rules apply to the use of sanitary facilities? How are toilets/showers/changing rooms designed for all genders and who can use them?**
Any guidelines available in the workplace in this regard should be mentioned. The communication should also specify that the gender-neutral toilets can be used by all, but people can still use the toilets for women* and men* if they prefer. Some gender-diverse people prefer to use sanitary facilities for women* or men*, while others prefer gender-neutral facilities. Respectful and hygienic behaviour must be observed by everyone at all times. It must be made clear to employees that personal boundaries are to be respected and that any violations will be reported immediately to the relevant authority. This also includes asking people whether they are in the right toilet or even to leave the toilet based on their "gender non-compliant" appearance.

— **How many toilets/showers/changing rooms are being repurposed or newly installed? Will there still be toilets/showers/changing rooms for women* and men*? Where are the gender-neutral sanitary facilities located? What options are there for people who need wheelchair-accessible sanitary facilities?**
An overview of the toilets, their facilities and the location in the building can be a practical way to make this information available. If a workplace will continue to maintain sanitary facilities for women* and men*, this must be specified in the communication.

— **Who can employees contact if they have questions, concerns or suggestions?**
A responsible person or contact should be designated who is sensitised and qualified to answer any questions.

Dealing with resistance and concerns

Managers should proactively address individual or collective resistance in the workforce. In accordance with the Human Rights Campaign for inclusive toilets (HRC 2016), we recommend these three steps for dealing with resistance.

1) First of all, people should be given the chance to express their concerns with the aim of understanding the reason for their resistance. Are they concerned about safety or protecting their privacy? The responsible parties need to take these concerns seriously and explain why gender-neutral toilets do not diminish safety and privacy, but rather increase them. According to the person, who, or which group, is the source of the presumed danger? The person may express prejudices or a lack of understanding towards gender-diverse people, which reveals a need for awareness-raising discussions and efforts to convince them. The existence of gender-neutral toilets in trains, planes, etc. can be a useful argument.

2) Secondly, the fundamental issue of providing safe access to toilets and the right to use them free from discrimination for all genders should be at the heart of the discussion. The responsible parties can refer to studies that show the risk of discrimination against gender-diverse people when accessing and using sanitary facilities, and also to the reported experiences of gender-diverse people. If employees are concerned about sexual harassment, it should become an opportunity to address this as an overall issue in the workplace. The problem of sexual harassment in the workplace is about more than just toilets. Those in charge should point out that the problem of sexual harassment and intimidating behaviour affects all genders and gender identities, and that gender-diverse people are therefore also the victims in many cases. The management should make it clear that sexual harassment is not tolerated in general and therefore cannot be used as an argument against gender-neutral toilets. The focus of the discussion should be on the fact that respectful behaviour is required in the toilets, without dismissing any justified or understandable concerns. A positive approach to the situation is for the management to work together with employees on projects or initiatives that promote both the recognition and visibility of gender-diverse people and the awareness of sexual harassment in the workplace. For example, posters or brochures can be placed inside individual cubicles. Information, educational material and campaign material from the German Federal Anti-Discrimination Agency on the prevention of sexual harassment is available at #betriebklimaschutz.[86] The project "make it work!"[87] of Bundesverband Frauenberatungsstellen und Frauennotrufe (German Federal Association of Women's Advisory Services and Hotline) also provides practical support and training. Contact people for cases of harassment and discrimination should be designated internally. According to Section 13 of the General Act on Equal Treatment, every private and public employer, company or department must appoint a competent authority to which employees can submit a complaint. The following text can be used as an example:

   "Everyone is entitled to use a toilet that corresponds to their gender and gender identity and protects them from discrimination. It is up to each individual to decide which toilet corresponds to their own gender, and this decision must not be questioned. The rules for the use of the toilets must be followed in order to minimise discrimination for all. Respect the privacy and boundaries of others. Behaviours such as staring, ridiculing, repeatedly attempting unwanted contact, preventing access or blocking the way and other forms of physical or verbal abuse will not be tolerated. If you observe such behaviour, please intervene in order to prevent further discrimination. Incidents should be reported to the following office […]"

---

86   https://www.antidiskriminierungsstelle.de/betriebsklimaschutz/betriebsklimaschutz_node.html
87   https://www.frauen-gegen-gewalt.de/de/make-it-work-fuer-einen-arbeitsplatz-ohne-sexuelle-diskriminierung-belaestigung-und-gewalt-2118.html

3) Thirdly, the administrative or company management should emphasise the company's position and values regarding gender diversity. External facilitation or moderation for the process of raising awareness of discrimination and gender-inclusivity can also be helpful for developing additional steps that the company can take to promote gender diversity.

MODULE 19: Implementation of gender-neutral toilets

Gender-neutral toilets, "**all-gender toilets**", "**unisex toilets**", or "**toilets for all genders**" are toilets that can be used safely and without discrimination by all people, regardless of gender, gender identity, physical characteristics and categorisation on the basis of appearance, voice, etc. Gender-neutral toilets are the **only inclusive solution** that also works for gender-diverse people. The creation of **sanitary facilities exclusively for gender-diverse people is not a good option**, as it can lead to new stigma, forced outing and a higher risk of discrimination. **Nor is it an inclusive solution** for people who do not identify as female or male or whose appearance is supposedly not gender-compliant **to maintain gender-binary toilets** and indicate that people can choose them according to their own gender identity. **We also recommend against expanding gender-binary toilets to include the "diverse" category** (women* + diverse toilets and men* + diverse toilets). These do not offer any advantage over toilets for all genders and continue to put pressure on gender-diverse people to adhere to a binary option and to out themselves. Moreover, the problem with women* + inter* + trans* + non-binary toilets is that they exclude the male gender identities of inter* and trans* people and that users will have to out themselves.

If there are a sufficient number of existing toilets, it is not an absolute requirement to make all toilets gender-neutral. **In addition to gender-neutral options, toilets for men* and women* can also be provided** if this is considered necessary. However, when **designating the different toilets**, it is important to ensure that **the time it takes to use the gender-neutral toilets must be comparable** to the use of the other toilets. For example, it could be feasible to have one gender-neutral toilet per floor or on every second floor. This should be taken into account for new and repurposed buildings in particular.

Gender-neutral toilets should consist of single **lockable cubicles** with separating walls that extend from floor to ceiling, and should also include their own washbasin. The specific implementation must be adapted to the layout and the available resources.

In new buildings, a sufficient number of gender-neutral toilets is required. **Fully accessible individual toilets with washbasins** that are gender-neutrally labelled by their function – as sitting toilets or urinals – are ideal. Each individual toilet should be equipped with a sitting toilet and be designed to be fully accessible, if possible. Washrooms for all genders that have several single cubicles should ideally also be enclosed by floor to ceiling partitions to protect the privacy of users.

If there are only one or two individual toilets in the workplace, building or hallway, these should be **repurposed as individual, gender-neutral toilets**. They should include **gender-neutral signage** (for example, "WC") and inside **locks** on the individual toilets, including outer room.

If there are only two women's and men's toilets with several single cubicles, these should be converted into toilets for all genders. The best option is to convert the toilets into individual, gender-neutral toilets. If reconstruction is not possible for spatial or financial reasons, employers can designate a reasonable proportion of male or female toilets as gender neutral. The toilets must bear **functional signage or be labelled as gender-neutral**. If there are urinals, they should at the very least be separated by protective screens. However, it is best to separate the urinals from the other areas with a wall and a door. If there are more than two toilets in buildings (both individual toilets and toilets with several single cubicles), an **appropriate proportion** of the toilets should be repurposed or rebuilt as gender-neutral toilets.

In the case of gender-neutral toilets or toilets with several single cubicles bearing functional signage, the assumption is that people of various genders will meet in the outer room of the toilets, for example, when washing their hands or moving between the entrance door and the single cubicles. In order to achieve the highest possible degree of safety and protection, measures should be taken to address concerns and risks. One way is to create awareness of the **rules of conduct for using** the toilets and to display them in the toilets. A responsible party should be trained and designated as a contact who people can go to with any questions or doubts, especially during the trial phase.

When creating the (new) signage for the sanitary facilities, it is important to ensure that all **signs** also use Braille[88]. Blind and visually impaired people can also be gender-diverse and would like to use toilets that correspond to their gender identity.

Wheelchair-accessible toilets must be taken into account when creating toilets for all genders.[89] Toilets with several single cubicles and individual toilets for all genders should also be wheelchair accessible to the greatest possible extent. These should be designated as wheelchair-accessible toilets "for all genders" in order to avoid the non-recognition of gender or gender identity in people with disabilities. **Only in exceptional situations can the wheelchair-accessible toilet be the only gender-neutral option available**. The wheelchair-accessible toilet must not be overused. Their use by people who depend on them due to various disabilities must always be prioritised.

---

88   Braille is a writing system of raised dots that can be read by many blind and visually impaired people using their sense of touch. For example, employers can contact the Federal Competence Centre BLISTA (https://www.blista.de/braille-druckerei#page-content), which operates a Braille printing studio. There are also other printing studios that offer signage in Braille.

89   Pursuant to Section 3a (2) of the German Ordinance on Workplaces, it is the employer's duty to ensure the availability of fully accessible sanitary facilities when people with disabilities are hired. The ordinance makes no specific mention of gender.

Functional and gender-neutral pictograms for toilets, changing rooms and showers

Functional pictograms illustrate the equipment of the toilet and changing facilities:

| Hand-washing facility | Sitting toilet | Urinals | Wheelchair-accessible toilet | Showers | Changing room | Baby changing station |

Gender-neutral or inclusive pictograms should not depict representations of "female" or "male" figures, nor combinations of gender binary figures. A good option is to use text-based signage, such as "WC for all genders", "Allgender WC", "Unisex toilet" or "WC for all".[90] It is recommended to supplement text with a functional pictogram and Braille.

WC for all genders

WC for all genders

WC for all genders

Urinals and cubicles with a sitting toilet

Cubicles with a sitting toilet

Single-room toilet

Source: Cooper Union[91]

Creative gender-neutral or inclusive pictograms can also be a good solution. "Funny" pictograms that poke fun at gender-diverse people or gender diversity should not be used. Braille writing should also be added to creative pictograms. Examples of creative solutions include:

All genders welcome (unisex)

Unisex

WC for all

Sitting toilets and standing toilets

Based on: Trier University[92], Volkswagen Arena, Wolfsburg[93], Toilet in Finland[94]

---

90   The term "unisex" is more common and may be more compatible for this reason, while "WC for all genders" and "All-gender WC" explicitly recognise gender diversity. An important factor is whether English is commonly spoken at work. "WC for all" is an open and inclusive term as long as everyone understands that "all" in this case refers to both people with physical disabilities and people of all genders.

91   https://cooper.edu/about/bathroom-signage

92   https://www.uni-trier.de/index.php?id=65274&tx_news_pi1%5Bnews%5D=13738&tx_news_pi1%5Bcontroller%5D=News&tx_news_pi1%5Baction%5D=detail&cHash=c6d5cb5a5f96fd8eac58960e1b5e9513

93   https://www.mz-web.de/sport/fussball/unisex-toiletten-in-berlin-dfb-pokalfinale-in-genderneutralem-stadion-32592514

94   http://www.kulttuuriakaikille.fi/blog.php?aid=16168&k=13443

Wheelchair-accessible toilets and single cubicles should also be labelled as all gender inclusive.

"WC for all"
Baby changing room

TOILET FOR ALL GENDERS
Everyone may use this toilet regardless of their gender identity or expression

All genders welcome
WC
Wheelchair accessible
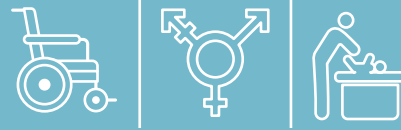
Based on: *Trent University Canada*[95], *Anne-Marie Tausch Vocational Schools*[96], *HAWK*[97]

MODULE 20: Implementation of gender-neutral changing rooms and showers

Just as for toilets, gender-diverse people should be able to use **changing rooms and showers** safely and without any discrimination. Ideally there should be **individual shower cubicles and individual changing rooms with partitions** that extend from floor to ceiling. There should also be enough space in the shower cubicles for changing in addition to hooks to hang clothes on. These and similar features are already in use in public pools, camping sites, sports facilities and other places. **Signage should be all gender inclusive and functional**. Stanford University in New York offers a good example of gender-neutral locker rooms. The newly constructed facility is presented in a video[98] and the guide lines for use[99] can be viewed online.

For many companies with **communal changing rooms or communal showers**, individual cubicles cannot be set up for spatial or financial reasons. Discussions should be held with employees in order to find **solutions specific to each situation**. The person in charge should work with a bathroom design and installation professional to determine whether additional **options for visual privacy, partitions**, etc. can be installed. Installing a separate, individual cubicle with a shower in addition to the communal showers is also a good option. Other solutions can be achieved by setting **shower times**, which **allows for separate use**. One idea for communal showers or communal changing rooms is to allot a period of around 10–15 minutes for use by individual users. This has nothing to do with **preferential or special treatment**, but is rather a professional way of handling the situation and gradually eliminating discrimination. Employers can display notices or provide information explaining that the facilities can be **locked for brief periods for individual use** and that other options can be individually agreed. This is relevant not only for gender-diverse people, as communal showers and changing rooms can be challenging for many employees for religious reasons or due to experiences of (sexual) violence and/or trauma, physical characteristics or feelings of shame.

95   https://www.trentu.ca/chrea/equity/all gender inclusive-restrooms
96   https://www.bbs-anne-marie-tausch.de/all-gender-welcome-toilette-39
97   https://www.zeit.de/news/2020-01/22/immer-mehr-unisex-toiletten-an-deutschen-hochschulen
98   https://www.youtube.com/watch?v=I2RlFv4_H_U&feature=youtu.be
99   http://web.stanford.edu/group/lbre_apps_forms/maps/fdg/General_Design_docs/All-Gender_Facilities_Guidelines_2017.pdf

3.6 Clothing, body and health

The **physical and health dimension aspects of work** are of key importance, both from an anti-discrimination perspective and from an occupational health and safety perspective. In modules 21 and 22, we discuss **informal and formal regulations on the appearance and conduct** of employees. At all workplaces, there are mainly unspoken informal rules about the appropriate clothing or style expected of employees at work. There is also a formal dress code in some cases. This is based on cultural norms that govern our understanding of what a professional appearance is for women and men. These assumptions are discriminatory for gender-diverse employees and for other employees who do not sufficiently meet these expectations.

Modules 23 to 26 address the **topic of health in the workplace**. We describe initial measures that can be taken to protect the health and physical integrity of gender-diverse employees: What is required in the workplace and in the working environment to prevent harm to the physical and mental health of gender-diverse people? What issues need to be considered regarding the health of gender-diverse people in the working environment? How can the increased risk of discrimination during interactions with medical professionals (see subsection 2.2) be mitigated?

MODULE 21: Informal regulations on "acceptable" appearance and conduct

In this module, we raise awareness of the complexity of informal regulations on clothing and professional appearance, which are relevant to nearly all employment relationships and can result in structural discrimination against gender-diverse employees. General and specific recommendations for action are difficult to develop in this context, due to the specificity of each workplace. The key recommendations for action are to **raise awareness and call for greater transparency and consideration of gender diversity in the way we perceive professional clothing and appearance** itself. In this context, the risks of discrimination against gender-diverse people described in section 2.2 should be taken into account. The prohibition of discrimination against all genders for employers in the public sector is also relevant with regard to clothing regulations (Article 3 (3) Page 1 of the German Basic Law and Sections 1 and 2 of the German Act on Equal Treatment).

In both informal and formal regulations, it should be noted that **clothing and style norms are cultural and contextual** and are also linked to social dominance. They are subject to constant change in association with social recognition and struggles for integration. This can be seen in gender-based clothing norms such cis dyadic women wearing trousers, which was socially frowned upon and in some cases punishable up until the 1950s. Currently **applicable clothing norms are based on the gender binary** and characterised by further dimensions of social inequality, which must also be taken into account in the discussion of work clothes and grooming.

Risks of discrimination posed by informal regulations

Formal and informal regulations on work clothes and what is regarded as an acceptable appearance reproduce social norms, such as those regarding gender. What is considered appropriate, respectable and professional depends on cultural contexts and is subject to historic change. Formal regulations on professional clothing are rather rare and mostly formulated as part of a company's internal code of conduct. On the other hand, **informal regulations are often not transparent**. They are a code much like an unspoken agreement that has not been expressed in any form, much less laid down.

Informal rules do not clearly define what constitutes an appropriate appearance for certain professions. This also includes internal, tacitly agreed conventions on professional clothing, such as the way higher-ranking colleagues dress for different occasions or how older or younger, slimmer or larger colleagues seen as female or male should dress. The discriminatory aspects of informal regulations are often difficult to address and change. Conforming to the expected standards of dress and appearance becomes more difficult the less they are negotiated in public:

> *"There are no policies or guidelines for maintaining a professional appearance, not even for women and men – the employee just has to look neat and groomed"*
>
> (Interview with large company, 2020).

Informal standards for clothing and appearance in the workplace are potentially discriminatory if **sanctions are used to forbid employees from wearing – or force them to wear – certain clothing or styles based on their assumed membership to a given group**. The negative effects of discriminatory reactions are often only indirect (comments, exclusions, rejection for hire, sanctions); however, they have real consequences. One person described the experience of having their professionalism discredited by a boss, whose comment supposedly only referred to the colour of their clothes. However, the person – a cis dyadic man – realised that not only were the clothes not taken seriously, but the comment was directed at the person as a whole.

> *"I also experienced this myself at company celebrations, where a boss came to me and made a comment about how colourful my clothes were (I was wearing purple and pink at the time), and it was clear to me that this meant I would no longer be taken seriously"*
>
> (Interview with large company, 2020).

Tacit notions and informal regulations on acceptable professional clothing and appearance are not only dependent on a given context but are often also **clearly based on the gender binary**. The following interview excerpts show how informal regulations based on the heteronormative gender binary lead to sanctions and discrimination:

> *"I specifically remember an employee in a skirt at one establishment. A few people commented: 'Did you see that? He's wearing a floral skirt today'"*
>
> (Interview with social services, 2020).

> *"One case we had recently was of a trainee teacher who got banned from school by the school administrator because he showed up wearing nail polish. The union managed to sort the matter out. […] But I don't know if it was completely resolved or whether this was a typical case of someone who stands out and is then suddenly transferred to another educational institution, or whether we could somehow arrange for the person to stay on at the educational institution and resolve the matter once and for all"*
>
> (Interview with trade union, 2020).

Questioning gender-based dress codes

To protect gender-diverse employees from discrimination arising from formal or informal standards of clothing and appearance, the **correlation between a certain kind of appearance and associated assumptions about professionalism, respectability and competence must be questioned**. The introduction of clothing regulations may also give rise to a right of co-determination by the works council. Notions of what is considered to be well-groomed or professional are neither uniform nor self-evident. It is precisely for this reason that they should **be defined clearly and transparently**:

> *"I really must say that having a groomed appearance is a definition that can be used to ban everything or allow everything. Because it is a non-definition. So if you require a groomed appearance, you have to define what a groomed appearance is."*
>
> (Interview with inter* trans* advocacy group 2020).

The legal framework of the right of instruction from Section 106 of the German Industrial Code (Gewerbeordnung – GewO) must also be observed. It limits the scope of admissible clothing regulations in the workplace (see Module 22), as a lawyer at a trans* inter* organisation explained in an interview:

> *"Personal rights are affected by this issue. The question is: Can a company make these kinds of [clothing] specifications at all? It can certainly do that, but only in some areas. For example, if there is customer traffic or business partner traffic. Then you represent the company to the outside world, and in this case the company can make certain specifications. However, these cannot be arbitrary and must also allow people to dress in accordance with their gender. Even for a non-binary person, gender-conforming clothing might not be the same as what is perceived from the outside. But for example, if people only work in an office where there are only colleagues or the management, where they do a lot via email and telephone, there must be no regulations, apart from security regulations."*
>
> (Interview with inter* trans* advocacy group 2020).

The clothing and appearance of gender-diverse people are often judged with the expectation that they recognisably **pass as female or male**. This involves judging whether the appearance of gender-diverse people is appropriate for the gender assigned to them by others. The standard is often how "well" the gender-diverse person manages to look like a cis dyadic woman or a cis dyadic man. The passing of gender-diverse people is frequently critiqued and evaluated, which constitutes discrimination against the gender-diverse person. The following interview excerpt from a public administration office illustrates how a trans* female college is constantly being judged on whether her clothing meets professional standards:

> *"So our colleague wears a very good human hair wig with beautiful long locks and tasteful, discreet glasses. And her clothes are always appropriate: She only wears pastels to work, so I know she's also really into bright pink, and on the slopes she also wears a pink ski outfit and glitter and eye-catching jewellery, but at work she is more reserved and saves all of that for her free time. She pulls it off very well, but even so, there is no feedback, and there can't be any feedback. But of course they are right in thinking that there is proper female or male clothing and that there are certain expectations and what is considered respectable or proper, but she does pull it off quite well"*
>
> (Interview with public administration office 2020).

This **rating of a person's gender performance** where the gender and gender identity of gender-diverse people are repeatedly assessed **goes hand in hand with the questioning of their professionalism**. Gender-diverse people certainly notice this. It represents a constant challenge and **puts pressure on them to adapt to the gender binary**, forcing them to deal with it in whatever way they can. Comments on the appearance of employees can be invasive or hurtful and also damage the working climate. The management, equality officers and other relevant contact persons must provide support in cases of hostility. In the working context, irrelevant and inappropriate judgements, comments and glances relating to a person's appearance and clothing lead to self-sanctioning and stressful situations that can negatively affect work performance.

> *"From my own experience, I find the issue of clothing extremely difficult, for example, when meeting with ministries, etc. Then I think about what looks professional and "compliant" and what would ACTUALLY fit my gender identity? To what extent am I restricted by "formal assumptions" about gendered clothing – what do you need to wear to be taken seriously, how much do you have to adapt to the norms, but at what point does it stop working because you're no longer yourself?"*
>   (Interview with non-governmental organisation, 2020).

> *"I didn't find any good strategies myself, so sometimes I adapt because I know they take me seriously when I'm wearing a suit, and so I tend to dress in the way I know they will take me seriously."*
>   (Interview with inter* trans* advocacy group 2020).

The following SAP company guidelines on outward appearance are a noteworthy example of a transparent and discrimination-sensitive dress code: "SAP has the right to influence the outward appearance and conduct of its employees in the workplace, depending on their responsibility, place of work and function, insofar as this serves the proper course of business. Transgender or transsexual employees have the right to dress in accordance with their gender identity, whereby the same specifications regarding the outward appearance also apply as for all SAP employees. Transgender or transsexual employees are free to decide individually when and how to dress according to their gender identity" (SAP 2014, page 7).

The advantage and disadvantage of these and similar regulations are that they leave a great deal of **room for interpretation**. This is because the statement that gender-diverse employees can dress according to their gender identity is not clearly defined. The problem remains that even such guidelines may be implicitly based on normative notions of binary gender-based clothing, leaving the door open for indirect sanctions. The hurdle is therefore to **dissociate professionalism and respectability from "gender-conforming" clothing and a binary gender-based appearance**.

With regard to the stress level associated with standards of clothing and appearance that negatively affects work performance, one person said in an interview that they would like *"everyone to be more sensitised to gender diversity, more deeply than just on the easy surface. Where I work, people – even in official positions – are superficially sensitised and pay attention to things like names and pronouns. But there is no deeper understanding of what it means for things like clothing and how many preconceived notions there are about norms. If people acquired a deeper awareness of this, it could allow gender-diverse people to relax"* (interview with inter* trans* advocacy group, 2020).

Questions for reflection on informal dress codes

What do you associate with a professional appearance?

- Which clothes do you associate with a respectable, work-related appearance?

- How do your expectations of the professional appearance of women* and men* differ?
  How does the company react when people fail to comply?

- Why does clothing irritate people when it does not meet their own expectations regarding the gender or gender identity of the wearer?

- How can expectations and informal regulations on work clothes and professional appearance be changed so that they are more inclusive for gender-diverse people?

- What awareness-raising measures are needed in order to implement an anti-discrimination policy towards gender-diverse people in the workplace in terms of clothing and appearance?

- What recommendations can you think of for your workplace in terms of all gender inclusive clothing and appearance? Where can you obtain relevant support and advice? Would advice from inter* and trans* advocacy groups or inclusivity and equal opportunity officers be helpful, for example?

All gender inclusive clothing – informal regulations

An open and transparent discussion should be held in the working environment about what is understood by appropriate and inappropriate clothing and appearance and what is expected. **Unisex dress codes** can be implemented in many industries, which differentiate according to **functionality and sizes rather than gender**.

> *"In the care sector, most clothes are unisex anyway, such as white trousers and a polo shirt. The cut may vary slightly, but it's actually only about the sizes, if anything, and everyone is free to choose them"*
> (Interview with medium-sized company, 2020).

Honest and open communication on expectations, confusions and possible conflicts regarding the appropriate appearance and gender norms is the foundation for an inclusive and diversity-conscious working climate. To this end, it is recommended to take measures to raise awareness and to seek training and advice from local inter* and trans** counselling centres or other organisations, if resources allow. If further training is not possible, internal assumptions, expectations and standards must be examined and communicated explicitly. **Examples can be given to clarify and illustrate** expectations, for instance, that leisure and sports clothing, off-the-shoulder clothing or open shoes or flip-flops should not be worn at the workplace. An unconventional dress code can also unleash creative potential in the work environment:

"We have no dress code and have never had one. Unconventionality has become our trademark, also in the way we dress. After all, we are developers and not bankers. [...] The rule for our employees is now: Come as you are, in whatever makes you feel comfortable. Suddenly there was much more creativity and even the clients were enthusiastic about it and thought it was great. Bankers came in suits on the first visit and then someone came to the door in flip-flops and shorts, and on the second visit they showed up casual in jeans and a T-shirt or dress shirt, and that also opened up our contact with the customer and brought us closer"

(medium-sized company).

One employee describes an all gender inclusive attitude to clothing and appearance in the workplace as follows:

"It is a wonderful example of how a culture can be created through clothing, where it can be clearly said: 'Oh, you are free to adapt your gender expression to suit your gender identity, and you are welcome to do that with us'"

(Interview with inter* trans* advocacy group 2020).

MODULE 22: Making work clothing inclusive for all genders

Occupational clothing and uniforms

Employees may generally decide for themselves which clothes they wear at work, unless effective provisions on occupational clothing or uniforms are included in employment contracts and company agreements. **Occupational clothing** refers to job-specific requirements in relation to clothing, that is, the typical working clothes in a given industry, such as banking, the catering industry or the care sector. Employees who wear occupational clothing are often free to choose whatever kind of clothing they want in order comply with this appearance. The term **uniform** refers more to distinctive clothes that are not required by law, but with specifically prescribed items of clothing, which are usually provided by the establishment. For example, there are uniforms for railway staff or in the aviation industry.

The following basic principles are relevant when it comes to requirements for **occupational clothing and uniforms**: According to Section 75 (2) of the Works Constitution Act, employers and the works council have a duty to protect and support the free development of an employee's personality. In addition, the provisions of Sections 1 and 2 of the General Act on Equal Treatment apply, whereby indirect or direct disadvantages for people due to their race, ethnic origin, gender, religion or belief, disability, age or gender identity are not permitted at any stage of employment. On this basis, gender-diverse employees must not be forced to wear occupational clothing or uniforms that do not correspond to their own gender or gender identity. The works council has the special responsibility of ensuring that the personal rights of gender-diverse employees are respected whenever any revisions need to be made to the occupational clothing and uniform regulations. According to Section 87 (1)(1) of the Works Constitution Act, the **works council** has **the right of co-determination in matters of uniform**. Furthermore, gender equality officers can be involved and request adjustments and extensions to the uniforms. Employees may contact the works council, complaints offices, equality officers or the trade union in the event of discrimination and violation of their personal rights arising from provisions on their uniforms.

If workplaces only offer female and male versions of uniforms, **options must be provided for gender-diverse employees**:

> *"We have four official gender markers in Germany – three positive and one with no marker. This means if I classify occupational clothing into male and female, I am not complying with the current state of the law. In other words, I have to ask myself how it is for people who do not fit into these categories. For example, there is someone at work who always wears dresses in their spare time, and I could potentially offer dresses as work clothes. But the person has a registered status for which this is not considered to be work clothes according to the internal rules – but then the question is, why shouldn't the person be allowed to wear it?"*
>
> (Interview with inter* trans* advocacy group 2020).

All gender inclusive uniforms mean either **eliminating gender differences in clothing** or **offering other self-determined options alongside male and female uniforms**. These may be neutral or combine elements of male and female uniforms. The decision whether to choose male, female, neutral, mixed or other uniform variations should be made by the employees themselves and must not be based on their registered gender. As the representative of an inter*/trans* organisation pointed out, it is especially important to maintain self-determination when choosing uniforms:

> *"Our aim is for people to decide for themselves what to wear if there are gender-specific uniforms. So a person can decide to choose 'this and that' and can do so individually regardless of their registered gender"*
>
> (inter * trans* organisation).

When introducing gender-diverse work clothing, employers can ask the **relevant professional association for its recommendations**:

> *"For example, employees can be given a choice of clothing that is not associated with any gender. Example: Trousers, skirts, shirts, blouses, dresses and jackets are provided by the company. However, the specific selection will be up to the individual employees"*
>
> (Interview with professional association Gesamtmetall 2019, page 15).

All uniform options should take **different body sizes and shapes** into account.

Protective clothing

There is an important legal difference between **occupational and work clothing** on the one hand, which is not required by law and whose purpose is usually to create a consistent appearance, and **protective clothing** on the other. Protective clothing is used to prevent work accidents and occupational diseases. According to the German Occupational Health and Safety Act, employers have a duty to provide protective clothing for employees if they are required for the workplace, and to cover the costs for cleaning and maintenance. The requirements of various industries are based on a **risk assessment of the respective activities**.

For a long time, the problem with protective work clothing has been that the production of such clothing is based on an implied cis dyadic male body standard. Women* who work in the fire brigade discuss the dangers and disadvantages that result from this in their day-to-day work:

"The aim of well-fitting clothing is first and foremost to provide proper protection. If you trip on the edge of your own jacket, or your clothes are too tight or much too wide, they're not going to be very safe. Another point about well-fitting clothing is that a suitable appearance is part of the image of a professional fire brigade. It's disgusting that my colleagues have to listen to people say things like, 'Can't you find anything that actually fits?'"

(Network of female firefighters, no date available).

From the perspective of occupational health and safety, anti-discrimination law and gender equality law, **protective work clothing must be provided in all sizes** and "fit the employees individually" (German employer's liability insurance association for the woodworking and metalworking industries – BGHM 2018). Within the prescribed standards for protective clothing, employees should determine which options they want to use. If certain sizes or models suitable for individual employees are not included in the company's assortment, they should be purchased in addition.

MODULE 23: Handling gender-related medical procedures

Sick leave and extended leave

The health of employees is the top priority and the foundation of productive work performance. When employees fall ill and take sick leave, their superiors must take into account that the employee is not required to share any information apart from the notification of their absence due to illness and the provision of a sick note or certificate of incapacity for work. Specific information about the **diagnoses of employees on sick leave** and specific treatments or medical procedures does not need to be disclosed and may not be requested. Hospital or rehabilitation stays of gender-diverse employees are medically necessary and should not be treated differently from a knee surgery or a slipped disc. **Medical certificates** for gender-diverse employees, for instance, due to gender-related medical procedures, may not be **evaluated any differently from the medical certificates of other employees under labour law** and may not be questioned. Common occupational reintegration support measures, wage continuation payments, health insurance regulations, flexible working hours, temporary reductions in working hours, etc. should also be applied to gender-related medical procedures.

Objections that gender-diverse people **take longer or more frequent sick leave per se than other employees** cannot be confirmed and are inadmissible. It is illegal to use such prejudice against a group as grounds for not hiring, limiting, denying promotions or dismissing gender-diverse people:

"It's just an excuse to say that there is a problem with gender-diverse people taking extended sick leave! [...] Supposed market-economy reasons are put forward, but this is only to cover up discrimination, or discriminatory attitudes towards trans* people – they are only excuses"

(Interview with medium-sized company, 2020).

Employers should be aware that employees have different individual health and medical needs which cannot be assessed on a group basis, just as for all other healing processes following accidents, injuries or illnesses. However, this does not exclude the possibility that some gender-diverse people may require longer absences. The problem is that generalised prejudice against a group is applied to all gender-diverse people, which can lead to refusal to hire them, for example.

Some gender-diverse people and especially inter* people may end up taking **longer or frequent leave** due to a lengthy treatment history (which may also be traumatic and require a series of multiple treatments). In such cases, it is important to develop an awareness and to actively support both inter* and other gender-diverse employees. It can also be important to establish a clear position in support of employees and a reference to the anti-discrimination standards. For instance, one inter* and trans* organisation recommends that sick days be recorded differently or not at all:

> *"This is just a tough subject, because of course the inter* people don't dare, they are afraid, or perhaps even use their annual leave for surgery or whatever. In other words, there just needs to be a clear commitment from the company that it's okay and such people can be removed from these metrics."*
>
> (Interview with inter* trans* advocacy group 2020).

Superiors should find supportive regulations and **accommodate any necessary doctor's appointments, hospital stays or longer recovery times** for gender-diverse (and all other) employees. They should be allowed to keep doctor's appointments by means of flexible working hours, for example. Gender-diverse employees should not be required to use their annual leave for medical procedures and for the subsequent recovery period during which they are still unable to work. Personnel management, works or staff councils or trade unions should be able to advise and inform gender-diverse people regarding sick leave and absences. They must receive training by taking specific courses.

Absences and dismissal

If a connection between a dismissal and absences or sick leave is suspected, gender-diverse people have the right to immediately inform the staff and works council or equality or anti-discrimination officers in order to investigate the (il)legality of the dismissal and the p**ossibilities of gender discrimination**.

> *"It may simply be an illegitimate termination because the employer wants to get rid of someone who has been ill for a long time. And if the employer dismisses someone because they know about their gender-specific background, this constitutes gender discrimination and is therefore also illegal. It is only a question of whether the victim will challenge it in good time, as there is a three week deadline in the event of a dismissal"*
>
> (Interview with inter* trans* advocacy group 2020).

In the event of possible discrimination against a gender-diverse employee, works and personnel councils or relevant officers should provide information for employees, inform them about the legal situation in cases of dismissal and refer them to external support services such as the legal advisors of trade unions, anti-discrimination bodies or inter* and trans* counselling centres.

Support for upcoming treatments

When **gender-confirming or follow-up treatments** are pending due to previous forced gender modification or other gender-related medical procedures, it may help to propose a confidential discussion with superiors or responsible officers on a voluntary basis. During the discussion, agreements can be made to avoid increasing the workload for the gender-diverse employees before and after the treatments and any professional disadvantages that may arise due to absences. Individual needs and support options can also be worked out together.

Employers are not always aware of the potential consequences of medical procedures for gender-diverse employees. Superiors or officers can contact inter* and trans* organisations for information. It may also be useful to consult transition guidelines or discussion guides:

— Gender transition guidelines, SAP[100]

— Transition – what you should know about the gender transition process, LADS Berlin[101]

— Gender Affirmation/Transition Guide for Employees, Griffith University[102]

— Gender Transition Guidelines, Uber (English)[103]

To support gender-diverse employees, superiors should **also develop knowledge and awareness of health insurance regulations** regarding gender diversity and related discrimination risks and exclusions in the workplace. For example, health insurance companies have until now required trans* people to do a **"real-life test"** in order to have the costs of their gender-transition procedures covered (MDS 2009). For the test, a person must have outed themselves in all areas of their life including their workplace and have lived in their self-determined gender for at least 1–1.5 years (depending on the planned procedures). This usually requires them to appear outwardly as female or male. It often gives rise to discrimination and violence in the workplace. (Future) employees should already be actively supported in this process, for example, by proposing discussions with supervisors, raising awareness among employees, explicitly referring to company anti-discrimination standards and clearly intervening in the event of discrimination.

A **person's physical conditions** may change due to gender-specific medical procedures, as may other life circumstances. The person concerned should therefore be given the option of changing **positions within the company** – at their own request – in order to prevent them from leaving the company and ending their career. However, the person should not be automatically advised to change positions as the "simplest solution". Various options can be identified together with the gender-diverse employee in a participatory process that will support the person in whatever they would like to do.

---

100 https://www.charta-der-vielfalt.de/uploads/tx_dreipccdvdiversity/Richtlinien zur Geschlechtsangleichung.pdf
101 https://www.berlin.de/sen/lads/_assets/schwerpunkte/lsbti/materialien/tia/tia_flyer-transition_druckversion.pdf
102 https://www.griffith.edu.au/data/assets/pdf_file/0028/741916/Gender-Affirmation-Transitioning-Guidelines_Staff_July2020.pdf
103 https://d1nyezh1ys8wfo.cloudfront.net/static/PDFs/Gender+Transition+Guidelines+-+Uber.pdf

MODULE 24: Health management and official medical examinations

Occupational health and safety: risks to mental health

According to the **German Occupational Health and Safety Act**, occupational health and safety covers **risks to mental health** in addition to physical accidents and risks. The German Federal Institute for Occupational Safety and Health (BAuA) writes: "The risk assessment of psychological strain is a complex and comparatively recent field of action in occupational health and safety. Many companies are only just starting to consider psychological burdens in the risk assessment; even large companies with well-established occupational health and safety structures and resources are often still in the development and testing phase of this area" (German Federal Institute for Occupational Safety and Health, no date available).

When **assessing the risk of psychological strain** in the day-to-day work of gender-diverse employees, the role of the normative gender binary and minority stress due to recurring experiences of discrimination must be taken into account. In the findings on discrimination against gender-diverse people (see subsections 2.1 and 2.2), there are many factors that need to be considered within an assessment of health-related burdens and risks in the working environment, according to the recommendations of the German Federal Ministry of Labour and Social Affairs (Beck et al. 2017).

Based on a corresponding risk assessment, according to the German Federal Institute for Occupational Safety and Health, "targeted measures to reduce psychosocial risks in the company [...] are necessary and possible, in working time and performance policy as well as in human resource planning or qualification, as the task of a considerate leadership and as a part of professional practice. In the interests of occupational health and safety, efforts to avoid risks in all these contexts must be systematically and consciously promoted" (BAuA 2020, page 3). This module shows ways in which employers can reduce the psychological burden of gender-diverse and all other employees. **Proactive prevention measures** should play a more important role in terms of occupational health and safety and inclusivity in future.

Official medical examinations and raising awareness among medical professionals

Official medical examinations are not mandatory except in certain areas, such as an appointment to the civil service. The **principle of proportionality** applies to all official medical examinations. They must be limited to what is necessary to carry out the work required for the position. Employees must be clearly informed in advance as to which specific examinations will be carried out. This is especially important for gender-diverse employees within the context of widespread and extremely discriminatory and, in some cases, traumatic experiences in the medical realm:

> *"Especially among inter* people but also trans* people, we are now seeing an incredible reluctance to go to the doctor. They have also potentially been traumatised in the past by medical facilities. Then there is the risk that the company medical exam alone is already enough to reject a position"*
>
> (Interview with inter* trans* advocacy group 2020).

It is advisable to give gender-diverse employees the option of having the necessary examination performed by their **family doctor** or to bring a **trusted person** with them to the examination:

> *"It is especially important for inter* people to be given the option of having their own doctor handle any necessary examination and not to set a requirement that it must be performed by the company doctor. For many inter* people, it takes a long time to find any doctors at all who can provide the treatment they need and with whom they do not feel completely uncomfortable, at best – even if they often have no choice but to travel long distances to see them"*
>
> (Interview with inter* trans* advocacy group 2020).

The company and public health officials, psychologists and those responsible for health protection for gender-diverse people must **be trained** in order to meet professional standards in dealing with gender diversity and avoiding discrimination in medical examinations and health management. Firstly, training on the medically relevant specifics of gender-diverse people is required. Secondly, awareness must be raised of the need to carry out examinations and treatments in a way that is sensitive to discrimination. Many gender-diverse people, and especially inter* people, have had their body autonomy violated, their privacy invaded, and have been severely traumatised through experiences of forced examinations and surgical and other invasive procedures.

> *"Further training is definitely required for these doctors, because some doctors have very binary or very pathologising beliefs"*
>
> (Interview with inter* trans* advocacy group 2020).

In the interest of occupational safety and health promotion, **potential retraumatisation must be prevented by sensitising medical professionals to these experiences**. Furthermore, the rights of self-determination and personality of the various employees must be respected. This also means that awareness should be raised of the **terms for gendered body parts**, and also that information about gender or gender identity must be handled with discretion and kept strictly **confidential**. In this context, employees are entitled to respect for their "privacy" (see Münchener Handbuch zum Arbeitsrecht [Munich Handbook on Labour Law – MHdB ArbR], Section 94 Protection of the employee's personality marg. 15). A release from medical confidentiality (Section 203 (1) of the German Criminal Code, for company doctors Section 8 (1) of the German Occupational Health and Safety Act) may only be required from the employee insofar as the legally permissible purpose of the examination is sufficient; it therefore only extends to the result of the examination, that is, whether the (potential) employee is suitable for the intended job (see Burger, TVöD (civil service collective agreement) – TV-L, TVöD AT Section 3 marg. 41). For example, all those who will be examined could be informed in advance that the commissioned doctors only need to be released from their duty of confidentiality to the extent that it concerns the person's suitability for the intended position. The person's gender, any operations, etc. should not have an influence on this suitability for the most part.

Resources for raising the awareness of company doctors and public health officials

— The organisations TransInterQueer and Intersex International OII-Deutschland have brochures on intersex[104] and transgender[105] issues with references for physicians psychologists, therapists and other medical professionals.

— The Inter* NRW project offers online resources on intersexuality[106] aimed at medical and care professionals, including information on human rights and inter* counselling services and interest groups, tips and advice for medical staff and information on the S2k Guideline "Variations of Sex Characteristics".

— As part of the InTraHealth[107] project of the Dortmund University of Applied Sciences and Arts, an interactive, web-based platform for health professionals is being created with the aim of eliminating discrimination against inter* and trans* people, and can be accessed for free online.

MODULE 25: Pregnancy and parental leave

Contrary to the notions of the heteronormative gender binary, it is not only cis dyadic women that can become pregnant. Some inter*, trans* male, trans* non-binary and other non-binary people can also become pregnant. This is why **company regulations on pregnancy and maternity rights also need to be formulated for gender-diverse people** and explicitly include them. This task should be taken seriously, especially by diversity, gender equality and equal opportunity officers, in addition to trade unions and works councils. The focus should not be on the gender of the pregnant person, but **on health and safety at work during pregnancy, childbirth, breastfeeding and further care**. The same applies to parental leave regulations, given that all gender-diverse people – just like cis dyadic people – can become parents within different family structures and have the responsibility of caring for children. The "**reconciliation of work and family life**" as a key area in gender equality policies is therefore also relevant for gender-diverse people. These policies must be extended to any parent and family structures in which gender-diverse people live and raise children. The inclusive regulations should then be published and made available to all employees. If there are any doubts regarding the needs of gender-diverse parents at their workplace or company, it may be useful to hold confidential discussions with the people concerned as well as to contact and seek advice from trans* and inter* counselling or information centres.

---

104 https://oiigermany.org/wp-content/uploads/2016/11/InterSensibroschuere_2013.pdf
105 http://www.transinterqueer.org/download/Publikationen/triq_infobroschuere_medizinpsych_berufe.pdf
106 https://inter-nrw.de/category/medical-workers/
107 https://www.fh-dortmund.de/de/fb/8/forschung/intrahealth/intrahealth_start.php

MODULE 26: Security controls and field service

Handling security and access controls

If the workplace has **security or access controls at the entrance and exit**, a discrimination-sensitive approach must be taken with regard to gender-diverse people – both employees and visitors. This applies to protocols such as handling name lists and advance registration, in particular when ID cards must be shown at the entrance. Security staff must be **trained on gender diversity with regard to ID documents**. This refers to the recognition of documents of people with a "diverse" gender marker or no gender marker and of the dgti supplementary ID card (see Module 12). In addition, security staff must be made aware that the gender indicated in the documents of some gender-diverse people may not correspond to their outward appearance.

When **checking** visitors or employees who are known to be gender-diverse, discriminatory situations can be avoided by providing certain options. If agreed, the security staff can be informed about the content of the documents and the form of address that should be used. Another option is to establish regulations that refrain from obligating employees to present their ID card or allow gender-diverse employees to replace this step with an **entry pass showing a self-determined gender and name**.

Non-invasive physical methods should generally be preferred to physical searches. For example, the contents of rucksacks, pockets, etc. can be shown. The human resources department should offer people known to be gender-diverse a **confidential arrangement** allowing them to decide who should check them, shielded from view. All employees for whom regular checks are particularly difficult should generally be permitted to have a special arrangement. **Checks using body scanners and pat-downs at the entrance and exit should not be performed**, as these violate the personal rights of gender-diverse people and lead to forced outings.

Field service, external events and business trips

If gender-diverse employees work in the field, they may be subject to additional risks of discrimination to which their cis dyadic colleagues are not exposed. **The duty to protect** employees is relevant in this situation. According to Section 12 (4) of the General Act on Equal Treatment, it is the employer's duty to protect employees from discrimination by third parties. Management can support this by using all gender inclusive language in communications with clients and addressing gender-diverse people by their preferred names and pronouns. If necessary, the management can hold discussions with contractors, clients and other third parties in order to raise awareness. If there are any doubts, it must be made clear that the inclusion of gender diversity is one of the fundamental values in the workplace and that discriminatory behaviour against employees will not be tolerated.

All gender inclusive **both internal and external event planning** should be the professional standard in support of anti-discrimination policy and inclusivity. This must be the case regardless of whether gender-diverse people are present or not. It includes the provision of gender-neutral sanitary facilities and the use of participant lists and name tags with preferred first names, titles and pronouns. If ID cards must be presented, the option of registering in advance should be offered if the official information on the ID differs from the preferred name. This will help prevent involuntary outings at the location.

Business trips should not be mandatory, especially for gender-diverse employees, and should not be made conditional for career advancement. When gender-diverse employees travel **abroad** on business, information must be obtained on entry regulations for people with a "diverse" gender marker or with no gender marker. Moreover, the legal situation regarding the protection of inter* and trans* people in the respective country should be investigated and taken into account. If **employees consider a destination to be unsafe**, the people involved should work together to come up with a suitable solution or an alternative location. For longer stays abroad, employers also need to find health insurance and healthcare services that cover inter*, trans* and (other) non-binary people.

Managers should assist gender-diverse employees in preparing paperwork and travel documents for business trips. When considering the means of transport, it should be noted that at travel hubs such as airports and train stations **incidences of inappropriate security checks and racial profiling by security personnel** are on the rise, affecting gender-diverse people, people of colour and Black people in particular. Alternative modes of transportation should be provided on request.

3.7 Final remarks

The aim of this study is to provide guidance for employers regarding actions that need to be taken and examples of what can be done to support anti-discrimination policy and the inclusion of gender-diverse people in key areas of occupation and employment. Such measures are legally required, and not only because a "diverse" gender marker has been introduced. The study demonstrates that **all gender inclusive corporate culture and human resources management, along with the reinforcement of all gender inclusive language**, are of key importance for the inclusion of gender-diverse people in employment and occupation. This requires far-reaching measures aimed at raising awareness of gender diversity in all areas of work and business, in addition to the clarification of the legal situation.

In order to achieve successful inclusion, our interviewees repeatedly referred to **structural needs for action** aimed at policymakers, ministries and state institutions, especially those that shape the framework conditions for employers and gender-diverse people. In this context, we also refer to the recommendations for action on the non-discriminatory treatment of trans* and inter* people by the independent expert commission of the German Federal Anti-Discrimination Agency[108] from 2015 (ADS 2015, pages 26–35). In many regards, these are consistent with needs for action voiced by our interviewees, and it is clear that the **necessary steps have not been taken to a sufficient degree** in the last five years to protect gender-diverse people against discrimination.

---

108 https://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/Literatur_Themenjahr_Geschlecht/Handlungsempfehlungen_Kommission_Geschlecht.pdf? blob=publicationFile&v=1

Legal recognition of gender-diverse people in the law

Many employers have criticised the **legal uncertainty** regarding the issue of how to integrate the amendment of the Civil Status Act into their own practices and expressed a **desire for more guidance on implementation**. The recognition of gender diversity in the decision of the German Federal Constitutional Court of 10 October 2017 must be translated into positive law by taking gender-diverse people into account in all gender-related norms. There is also a need for an amendment to the General Act on Equal Treatment in terms of ensuring better protection for gender-diverse people. An explicit legal protection of the right to amend documents after name and legal gender marker changes were requested. At the same time, more needs to be done to publicise and implement the new civil status law.

Clear insight into the legal situation is needed by means of additional legal expertise as well as the **translation of demands into specific legal regulations** in legislation, interpretation and practice.

To this end, we recommend that all legal standards be adapted in such a way as to guarantee the recognition, inclusion and self-determination of all gender-diverse people. Advocacy groups for gender-diverse people should be actively involved as experts in legislative amendment processes.

Support from public authorities, employers and trade unions

In addition, we also underscored the need for **more support** in practically integrating the changes arising from the new Civil Status Act. Public service representatives would like to see specific **recommendations for action for the federal government and the federal states** that can guide public authorities and administrations. Representatives of the **private sector** also expressed a need for more support and assistance.

In interviews, employers and gender equality officers also indicated that a **stronger network of relevant actors** and institutions would help in improving knowledge transfer, pooling resources and establishing quality criteria. Within this context, the involvement of representatives from inter* and trans* communities is essential.

In addition, a **stronger engagement of trade unions and staff and works councils** is also recommended for the de facto implementation of anti-discrimination measures for gender-diverse employees. A **formal recommendation on** the implementation of **all gender inclusive language** in occupation and employment **from official sources** would encourage its acceptance. There is a need for regulation, particularly with regard to official job titles, other official titles and forms of address.

It was also revealed that all operational areas of an organisation must be involved, which, for example, will lead **IT providers** to address gender diversity and implement this in their digital applications and software products.

Promoting anti-discrimination efforts, raising awareness and developing competencies

Based on our analysis, we would like above all to emphasise the need for **awareness-raising measures and further training on gender diversity**, as expressed by the interviewees. It requires state-sponsored, long-term training programmes, advisory services and information materials specifically designed for sharing knowledge and best practices on anti-discrimination measures and the inclusion gender-diverse people. More of these should be targeted at **trade unions and works and staff councils**. Small and medium-sized companies, authorities, associations and NGOs from all sectors in particular need more **structural and financial resources** for professionally and sustainably raising awareness of this topic and developing competencies. While large companies often have sufficient resources for diversity measures – and are instead prevented from implementing anti-discrimination measures by other factors – other employers repeatedly fail to find sufficient financial and human resources.

Efforts to raise awareness, the implementation of anti-discrimination measures and the inclusion of gender-diverse people should be **based on empirical research**, which examines the life situation of gender-diverse people with regard to social participation in areas such as education, healthcare or employment. This also requires the **promotion of intersectional research projects** on gender diversity and the inclusion of gender diversity in existing **instruments for measuring social inequality**.

4. Service section: Counselling centres and resources

4.1 Information on education and awareness-raising

- **Inter* NRW. A wide range of information on intersexuality,**
  from Landeskoordination Trans* NRW (office for trans matters in North Rhine-Westphalia) (website)
  ➤ www.aug.nrw/materialien/downloadlinks1/inter/

- **Support the human rights of intersex people. How can you help?**
  By OII Germany (publication)
  ➤ https://oiigermany.org/wp-content/uploads/2017/11/toolkit_deutsch.pdf

- **Human rights and intersex people, by OII Germany (publication)**
  ➤ https://oiigermany.org/wp-content/uploads/2017/02/COHR_DE_INTER.pdf

- **Trans* in Arbeit (Trans* in work),** by Landesstelle für Gleichbehandlung – gegen Diskriminierung
  (national office for equal treatment – against discrimination) (brochures)
  ➤ www.berlin.de/sen/lads/schwerpunkte/lsbti/materialien/transgeschlechtlichkeit/

- **Trans* at the workplace. Suggestions for respectful interactions,**
  from Landeskoordination Trans* NRW (publication)
  ➤ https://ngvt.nrw/website/wp-content/uploads/2020/05/Trans_am_Arbeitsplatz_2020.pdf

- **For the good of the child? The rights of intersex children must be respected,**
  by Amnesty International (brochure)
  ➤ www.queeramnesty.hamburg/wp-content/uploads/2018/07/2017_07_QA_Flyer_Intersex_8-seiter_
  Ansicht.pdf

- **Articles on #intergender and #transgender on the Rainbow Web Portal of the Federal Ministry of**
  Family Affairs, Senior Citizens, Women and Youth (website)

In simplified German:

— **Woman. Man. And so much more**, by Verein Leicht Lesen (easy reading association) (publication)
   🢅 http://www.leichtlesen.at/wp-content/uploads/2017/06/frau-mann-undnochvielmehr_
   auflage22018.pdf

— **More rights for inter-gender and trans-gender people,**
   by the German Institute for Human Rights (Deutsches Institut für Menschenrechte – DIMR)
   (publication)
   🢅 https://www.institutfuermenschenrechte.de/fileadmin/user_upload/Publikationen/POSITION/
   Position_13_Mehr_Rechte_fuer_inter-geschlechtliche_und_trans-geschlechtliche_Menschen.pdf

4.2 Language guides and tools

— **Gender-sensitive language. A guide**, by Technische Universität Berlin
   🢅 www.tu-berlin.de/fileadmin/i31/Publikationen/Weitere/KFGSprachleitfaden.pdf

— **Leitfaden für geschlechtergerechte und inklusive Sprache (Guide to GenderEqual and All gender
   inclusive Language)** by Prout at Work
   🢅 www.proutatwork.de/wp-content/uploads/2019/10/PAW_HowTo_Nr.3_GenderSprache_
   Web_10-2019.pdf

— **Genderwörterbuch (Gender dictionary)**, by geschicktgendern.de
   🢅 https://geschicktgendern.de/

— **Gend-O-Mat,** by the Bauhaus University Weimar
   🢅 www.uni-weimar.de/projekte/gend-o-mat/1

— **Handreichung Geschlechtergerechte Sprache (Handout on gender-friendly language),**
   by Referat Gleichgeschlechtliche Lebensweisen and Geschlechtsidentität RheinlandPfalz
   🢅 https://mffjiv.rlp.de/fileadmin/MFFJIV/Vielfalt/RLP_unterm_Regenbogen/Handreichung_
   geschlechtergerechte_Sprache_1_2020_2.pdf

— **Dictionary and additional bibliography on all gender inclusive language,** by fairlanguage
   🢅 https://fairlanguage.com/lexikon/

— **Inter* und Sprache (Inter* and Language), and Trans* in den Medien (Trans* in the Media),**
   by TransInterQueer
   🢅 www.transinterqueer.org/download/Publikationen/InterUndSprache_A_Z.pdf

4.3 Counselling centres

This overview includes a wide range of inter* and trans* organisations as well as organisations that work on gender diversity and which are mainly run and staffed by gender-diverse people. Our aim is to raise awareness of local and regional organisations offering information and advice. Many of their websites contain helpful resources and information. In addition, we refer to the advisory service of the German Federal Anti-Discrimination Agency,[109] which offers initial legal advice and can refer individuals to other supporting agencies depending on their situation and consultation needs. Interested parties can also find a counselling centre search engine[110] on the website of the German Federal Anti-Discrimination Agency, which provides a list of and links to local, regional and federal anti-discrimination bodies.[111]

Nationwide

Bundesverband Trans* e. V. i.G.
✉ info@bv-trans.de
✦ www.bundesverband-trans.de

Transgender Europe
✉ tgeu@tgeu.org
✦ www.tgeu.org

Amnesty International – Queeramnesty Coordination Group
✦ www.queeramnesty.de/

Organisation Intersex International
✦ https://oiigermany.org/

Deutsche Gesellschaft für Transidentität und Intersexualität dgti e. V.
with regional groups
✦ www.dgti.org/

Intersexuelle Menschen e. V.
✦ www.im-ev.de

TransMann e. V.
with regional groups
✦ https://transmann.de

Trans-Ident
with regional groups
✦ www.trans-ident.de

Baden-Württemberg

TransAll
Freiburg
✉ info@trans-all.org
✦ www.trans-all.org

Selbsthilfegruppe für transidente Menschen Stuttgart
✦ https://transsexuell-stuttgart-selbsthilfegruppe.de/

SHG für transsexuelle Menschen und deren Angehörige Heidelberger Selbsthilfebüro
Heidelberg/Bergheim
☎ +49 6221 184 290
✉ info@selbsthilfe-heidelberg.de
✦ www.selbsthilfe-heidelberg.de

---

109 https://www.antidiskriminierungsstelle.de/DE/Beratung/beratung_node.html
110 https://www.antidiskriminierungsstelle.de/SiteGlobals/Forms/Suche/Beratungsstellensuche/Karte/Beratungsstellensuche_formular. html?nn=6569368&ambit_distance=200&ambit_distance.HASH=7c57143b8fe1207f9b11
111 The following counselling centres are all based in Germany – mainly operating in German. For further information follow the given links. Several organisations also provide (basic) information in English.

Freundeskreis Transidenter Menschen Ulm
Ulm
- 📞 +49 731 378 804 06 (landline)
- 📞 +49 152 559 927 31 (mobile)
- ✉️ beratung-tti@netzwerk-lsbttiq.net
- ➤ www.freundeskreis-trans-ulm.de

InTra Beratung
- 📞 +49 171 627 35 29
- ✉️ intra@100mensch.de
- ➤ https://100mensch.de/intra/

Vereinigung von Menschen mit Varianten der Geschlechtsentwicklung VDGE e. V.
Stockach
- ➤ www.vdge.org/

Bavaria

Trans*Inter*Beratungsstelle
Munich
- 📞 +49 89 543 33-130
- ✉️ info@trans-inter-beratungsstelle.de
- ➤ www.trans-inter-beratungsstelle.de

VIVA TS Selbsthilfe e. V.
Munich
- 📞 +49 89 856 346 409
- ✉️ hotline@vivats.de
- ➤ www.vivats.de

TransPeople g.V.
Erlangen
- 📞 +49 9131 380 81 (landline)
- 📞 +49 172 852 99 87 (mobile)
- ✉️ info@TransPeople.org
- ➤ www.TransPeople.org

Berlin

Lesbenberatung e. V.
Berlin
- 📞 +49 30 215 20 00
- ✉️ info@lesbenberatung-berlin.de
- ➤ www.lesbenberatung-berlin.de

Queer Leben Lebensort Vielfalt
Berlin
- 📞 +49 30 233 690 70
- ✉️ mail@queer-leben.de
- ➤ www.queer-leben.de

GLADT e. V.
Berlin
- 📞 +49 30 265 566 33 (landline)
- 📞 +49 157 820 742 31 (mobile)
- ✉️ info@gladt.de
- ➤ www.gladt.de

Sonntags-Club e. V.
Berlin
- 📞 +49 30 449 75 90
- ✉️ info@sonntags-club.de
- ➤ www.sonntags-club.de

TransInterQueer e. V.
Berlin
- ✉️ triq@transinterqueer.org
- ➤ www.transinterqueer.org

Trans* – Jugendgruppe im Jugendnetzwerk Lambda Berlin
- 📞 +49 30 282 79 90
- ✉️ info@lambda-bb.de
- ➤ www.lambda-bb.de

Brandenburg

Landesverband AndersARTiG e. V.
Potsdam
- +49 331 201 98 88
- mail@andersartig.info
- www.andersartig.info/

CSD Cottbus
c/o Kulturzentrum Bunte Welt Cottbus
- +49 355 290 653 85
- www.csd-cottbus.info

Bremen

Trans-Recht e. V.
Bremen
- +49 421 704 170
- info@trans-recht.de
- www.trans-recht.de

Hamburg

Hanse X Men
Hamburg
- kontakt@hansexmen.de
- www.hansexmen.de

Trans*Beratung Nord e. V.
Hamburg
- +49 1575 483 24 45
- info@transberatung-nord.de
- www.transberatung-nord.de

Magnus Hirschfeld Centrum trans*Beratung
Hamburg
- +49 40 279 00 69
- info@mhc-hamburg.de
- www.mhc-hamburg.de

Switch – Transsexuellen-Selbsthilfe im Magnus Hirschfeld Centrum
- +49 176 294 973 23
- info@switch-hh.de
- www.switch-hh.de

Hesse

vielbunt – queere Community Darmstadt e. V.
Darmstadt
- trans@vielbunt.org
- www.vielbunt.org

DaQueerFem* (Trans*Beratung an der Uni Darmstadt)
Darmstadt
- queerfem@da-queer-fem.org
- www.da-queer-fem.org

LSKH Lesbisch-Schwules Kulturhaus Frankfurt Frankfurt am Main
- +49 69 293 044
- lllinfo@gmx.de
- www.lskh.de

Mecklenburg-Western Pomerania

Bildungsprojekt Qube
Greifswald
- 📞 +49 151 671 927 51
- ✉️ info@bildung-qube.de
- 🧭 https://bildungqube.wordpress.com/

queernb e. V. Neubrandenburg
- ✉️ info@queernb.de
- 🧭 http://queernb.de/

rat+tat e. V. Rostock
Rostock
- 📞 +49 381-453 156
- ✉️ post@ratundtat-rostock.de
- 🧭 www.ratundtat-rostock.de

Lower Saxony

Onkel Emma. Das queere Zentrum
Braunschweig
- 📞 +49 531 225 00 78
- ✉️ info@onkel-emma.org
- 🧭 www.onkel-emma.org

Andersraum e. V. Queeres Zentrum
Hanover
- 📞 +49 511 340 013 46
- ✉️ info@andersraum.de
- 🧭 www.queeres-zentrum.de/

Trans*Beratung Göttingen
Göttingen
- 📞 +49 551 291 725 24
- ✉️ kontakt@transberatung-goettingen.de
- 🧭 www.transberatung-goettingen.de

TRAKINE – Trans-Kinder-Netz
Wrestedt
- 📞 +49 162 663 78 27
- ✉️ info@trans-kinder-netz.de
- 🧭 www.trans-kinder-netz.de

North Rhine-Westphalia

Landeskoordination Trans* NRW
Cologne
- 📞 +49 221 292 652 60
- ✉️ mika.schaefer@lako-trans.nrw
- 🧭 https://ngvt.nrw/landeskoordination/

Rubicon Trans*
Cologne
- 📞 +49 221 194 46
- 🧭 https://rubicon-koeln.de/trans/

Trans*beratung Düsseldorf
Düsseldorf
- 📞 +49 211 770 95 25
- ✉️ info@transberatung-duesseldorf.de
- 🧭 www.transberatung-duesseldorf.de

Transfamily
Duisburg
- 📞 +49 2065 499 90 34
- ✉️ louis@transfamily.de
- 🧭 www.transfamily.de

TransBekannt e. V.
Kontaktstelle Dortmund: CafePlus
Dortmund
- 📞 +49 231 985 388 61
- 🧭 https://transbekanntermachen.de/

Together Mühlheim
Mülheim an der Ruhr
- 📞 0208 302 73 58
- 🧭 https://queere-jugend-nrw.de/projekte/
  together-muelheim/

Rhineland-Palatinate

dgti e. V. Arbeitskreis Rheinland-Pfalz

Mainz

✉ petra.weitzel@dgti.org

QueerNet Rheinland-Pfalz

Multiple locations

✉ familienvielfalt.rlp@queernet-rlp.de

➤ www.queernet-rlp.de/projekte/
familienvielfalt

Saxony

different people e. V.

Chemnitz

📞 +49 371 500 94

✉ info@different-people.de

➤ www.different-people.de

Gerede e. V. Transgendergruppe

Dresden

📞 +49 351 802 22 51

✉ emailberatung@gerede-dresden.de

➤ www.gerede-dresden.de/

Rosalinde e. V.

Leipzig

📞 +49 341 879 69 82

✉ kontakt@rosalinde-leipzig.de

➤ www.rosalinde-leipzig.de/de/

Saxony-Anhalt

Trans-Inter-Aktiv in Mittel-
deutschland e. V. – TIAM

✉ info@trans-inter-aktiv.org

➤ www.trans-inter-aktiv.org/

Jugendnetzwerk Lambda
Mitteldeutschland e. V.

Halle (Saale)

📞 +49 34 569 151 518

✉ info@lambda-mdl.de

➤ https://lambda-mdl.de/

5. Bibliography

Adamietz, L. (2011) *Geschlecht als Erwartung. Das Geschlechtsdiskriminierungsverbot als Recht gegen Diskriminierung wegen der sexuellen Orientierung und der Geschlechtsidentität.* Nomos, Baden-Baden.

Adamietz, L. & Bager, K. (2016) *Gutachten: Regelungs- und Reformbedarf für transgeschlechtliche Menschen. Begleitmaterial zur Interministeriellen Arbeitsgruppe Inter- & Transsexualität – Band 7.* Bundesministerium für Familie, Senioren, Frauen und Jugend, Berlin. Available online at: https://www.bmfsfj.de/blob/114064/460f9e28e5456f6cf2ebdb73a966f0c4/imag-band-7-regelungs--und-reformbedarf-fuer-transgeschlechtliche-menschen---band-7-data.pdf, checked on 12 August 2020.

Adorno, T. W. (1944) *Minima Moralia.* Suhrkamp, Frankfurt am Main.

ADS – Antidiskriminierungsstelle des Bundes (2019) *AGG-Wegweiser. Erläuterungen und Beispiele zum Allgemeinen Gleichbehandlungsgesetz.* Antidiskriminierungsstelle des Bundes, Berlin.

ADS – Antidiskriminierungsstelle des Bundes (2017) *Diskriminierung in Deutschland. Dritter Gemeinsamer Bericht der Antidiskriminierungsstelle des Bundes und der in ihrem Zuständigkeitsbereich betroffenen Beauftragten der Bundesregierung und des Deutschen Bundestages.* Antidiskriminierungsstelle des Bundes, Berlin. Available online at: https://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/BT_Bericht/Gemeinsamer_Bericht_dritter_2017.pdf?blob=publicationFile&v=10, checked on 6 September 2020.

ADS – Antidiskriminierungsstelle des Bundes (2015) *Gleiche Rechte – gegen Diskriminierung aufgrund des Geschlechts, Bericht der unabhängigen Expert_innenkommission der Antidiskriminierungsstelle des Bundes.* Antidiskriminierungsstelle des Bundes, Berlin. Available online at: https://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/Literatur_Themenjahr_Geschlecht/Handlungsempfehlungen_Kommission_Geschlecht.pdf?__blob=publicationFile&v=1, checked on 6 September 2020.

ADS – Antidiskriminierungsstelle des Bundes (2014) Leitfaden für *Arbeitgeber. Anonymisierte Bewerbungsverfahren.* Antidiskriminerungsstelle des Bundes, Berlin. Avalaible online at: https://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/AnonymBewerbung/Leitfaden-anonymisierte-bewerbungsverfahren.pdf?__blob=publicationFile, checked on 25 September 2020.

ADS – Antidiskriminierungsstelle des Bundes (2008) *Forschungsprojekt. Diskriminierung im Alltag, Wahrnehmung von Diskriminierung und Antidiskriminierungspolitik in unserer Gesellschaft.* Available online at: https://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/projekte/forschungsprojekt_diskriminierung_im_alltag.pdf?__blob=publicationFile&v=2, checked on 5 August 2020.

Augstein, M.S. (2013) *Zur Situation transsexueller Kinder in der Schule von der offiziellen (gerichtlichen) Vornamensänderung.* Available online at: https://www.trans-kinder-netz.de/files/pdf/Augstein%20Maerz%202013.pdf, checked on 6 September 2020.

AWO Landesverband Berlin e.V. (2017) *Sensibilität im Sprechen und Schreiben.* AWO Landesverband Berlin e.V., Berlin.

Baer, S., Bittner, M. & Göttsche, A. L. (2010) *Mehrdimensionale Diskriminierung – Begriffe, Theorie und juristische Analyse*. Published by the Antidiskriminierungsstelle des Bundes. Available online at: http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/Expertisen/Expertise_Mehrdimensionale_Diskriminierung_jur_Analyse.pdf? blob=publicationFile, checked on 5 August 2020.

BAuA – Bundesanstalt für Arbeitsschutz und Arbeitsmedizin (no date available) *Gefährdungsbeurteilung psychischer Belastung*. Available online at: https://www.baua.de/DE/Themen/Arbeitsgestaltung-im-Betrieb/Psychische-Belastung/Gefaehrdungsbeurteilung/Gefaehrdungsbeurteilung_node.html, checked on 7 September 2020.

BAuA – Bundesanstalt für Arbeitsschutz und Arbeitsmedizin (2020) *Gefährdungsbeurteilung psychischer Belastung in der betrieblichen Praxis*. BAuA, Dortmund. Available online at: https://www.baua.de/DE/Offerings/Publications/Report-Compact/F2358.pdf?blob=publicationFile&v=4, checked on 7 September 2020.

Baumann, A. L., Egenberger, V. & Supik, L. (2018) *Erhebung von Antidiskriminierungsdaten in repräsentativen Wiederholungsbefragungen. Bestandsaufnahme und Entwicklungsmöglichkeiten*. Antidiskriminierungsstelle des Bundes, Berlin. Available online at: https://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publications/Expertise/DataCollection.pdf?__blob=publicationFile&v=6, checked on 7 September 2020.

Baumgartinger, P. P. (2017) *Trans Studies: Historische, begriffliche und aktivistische Aspekte*. Zaglossus, Wien.

Beck, D., Berger, S., Breitmann, N., Fergen, A., Gregersen, S., Morschhäuser, M., Reddehase, B., Ruck, Y. R., Sandrock, S., Splittgerber, B. & Theiler, A. (2017) *Arbeitsschutz in der Praxis. Empfehlungen zur Umsetzung der Gefährdungsbeurteilung psychischer Belastung*. Leitung des GDA-Arbeitsprogramms Psyche, Berlin.

BGHM – Berufsgenossenschaft Holz und Metall (2018) *Arbeitsschutz Kompakt Nr. 090. Schutzkleidung*. Available online at: https://www.bghm.de/arbeitsschuetzer/praxishilfen/arbeitsschutz-kompakt/090-schutzkleidung/, checked on 7 September 2020.

Bielefeldt, H. (2009) *Zum Innovationspotenzial der UN-Behindertenrechtskonvention*. Deutsches Institut für Menschenrechte, Berlin. Available online at: https://www.institut-fuer-menschenrechte.de/uploads/tx_commerce/essay_no_5_zum_innovationspotenzial_der_un_behindertenrechtskonvention_aufl3.pdf, checked on 5 August 2020.

Biewer, G. (2009) *Grundlagen der Heilpädagogik und Inklusiven Pädagogik*. Bad Heilbrunn.

Bittner, M. (2011) *Geschlechterkonstruktionen und die Darstellung von Lesben, Schwulen, Bisexuellen, Trans* und Inter* (LSBTI) in Schulbüchern*. GEW, Frankfurt. Available online at: https://www.gew.de/index.php?eID=dumpFile&t=f&f=25113&token=da9eb1b770b9761031934497b6a9d0c5af5665c7&sdownload=&n=Schulbuchanalyse_web.pdf, checked on 5 August 2020.

Bittlingmayer, U. H. & Sahrai, D. (2019) "Inklusion als Anti-Diskriminierungsstrategie". In: Scherr, A., El-Mafaalani, A. & Yüksel, G. (editors) *Handbuch Diskriminierung*. Springer, Wiesbaden, pages 683–700.

Bitzan, R. (2019) *Geschlechtervielfalt als Thema für die Organisation und Kommunikation in der Hochschule – Hintergründe, Handlungsbedarfe, Empfehlungen.* Technische Hochschule Nürnberg, Kompetenzzentrum Gender & Diversity, Nürnberg. Available online at: https://www.th-nuernberg.de/fileadmin/centres-of-competence/komgedi/documents/1_Bitzan_ReportGenderDiversity_2019_final14112019.pdf, checked on 5 August 2020.

BMI – Bundesinnenministerium (2019) *Rundschreiben des Bundesinnenministeriums vom 10. April 2019 – V II 1 – 20103/27#17.* Available online at: https://www.personenstandsrecht.de/SharedDocs/newsflash/webs/PERS/EN/circular/2019/0122-aenderung-geburtenregister.html, checked on 7 September 2020.

BMJV – Bundesministerium der Justiz und für Verbraucherschutz (2020). *Referentenentwurf des Bundesministeriums der Justiz und für Verbraucherschutz Entwurf eines Gesetzes zum Schutz von Kindern vor geschlechtsverändernden operativen Eingriffen.* Available online at: https://www.bmjv.de/SharedDocs/Legislation/EN/Ban_OP_gender_change_child.html, checked on 19 September 2020.

Bora, A. (2012) *Zur Situation intersexueller Menschen. Bericht über die Online-Umfrage des Deutschen Ethikrates.* Deutscher Ethikrat, Berlin.

Bundesinstitut für Arzneimittel und Medizinprodukte (2020) *ICD-11 – 11. Revision der ICD der WHO.* Available online at: https://www.dimdi.de/dynamic/de/klassifikationen/icd/icd-11/, checked on 12 August 2020.

Bundesverband Trans (2016) *Paradigmenwechsel. Zum Reformbedarf des Rechts in Bezug auf Trans*.* Available online at: https://www.bundesverband-trans.de/portfolio-item/policy-paper-recht/, checked on 12 August 2020.

Butler, J. (1991) *Das Unbehagen der Geschlechter.* Suhrkamp, Frankfurt am Main.

Butler, J. (1997) *Körper von Gewicht.* Suhrkamp, Frankfurt am Main.

Butler, J. (2011) *Die Macht der Geschlechternormen und die Grenzen des Menschlichen.* Suhrkamp, Frankfurt am Main.

Carpenter, M. & Hough, D. (2014) *Employer's Guide to Intersex Inclusion.* Pride in Diversity and OII Australia, Sydney. Available online at: https://ihra.org.au/wp-content/uploads/key/Employer-Guide-Intersex-Inclusion.pdf, checked on 5 August 2020.

Connell, R. W. (1987) *Gender & Power. Society, the Person and Sexual Politics.* Stanford University Press, Stanford.

Crenshaw, K. (1989) "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color", *Stanford Law Review*, vol. 43, pages 1241–1299.

Degele, N. (2005) "Heteronormativität entselbstverständlichen. Zum verunsichernden Potenzial von Queer Studies", *FZG-Freiburger Zeitschrift für GeschlechterStudien*, Volume 11, Nummer. 2, pages 15–39.

Deutscher Ethikrat (2012) *Intersexualität. Stellungnahme.* Deutscher Ethikrat, Berlin. Available online at: https://www.ethikrat.org/fileadmin/Publikationen/Stellungnahmen/deutsch/DER_StnIntersex_Deu_ Online.pdf, checked on 5 August 2020.

Dritte Option (2018) *Statement zur beschlossenen PStG-Reform:* Ein Schritt nach vorn, aber noch kein verfassungskonformes Gesetz. Available online at: http://dritte-option.de/statement-zur-beschlossenen-pstg-reform-a-step-ahead-but-still-no-constitutional-law/, checked 5 August 2020.

Dutta, A. & Fornasier, M. (2020) *Jenseits von männlich und weiblich – Menschen mit Varianten der Geschlechtsentwicklung im Arbeitsrecht und öffentlichen Dienstrecht des Bundes.* Antidiskriminierungsstelle des Bundes, Berlin.

Eckert, L. (2017) *Intersexualization: The Clinic and the Colony.* Routledge, New York.

Elsuni, S. (2011) *Geschlechtsbezogene Gewalt und Menschenrechte. Eine geschlechtertheoretische Untersuchung der Konzepte Geschlecht, Gleichheit und Diskriminierung im Menschenrechtssystem der Vereinten Nationen.* Nomos, Frankfurt am Main.

Elsuni, S. (2014) *Mehrdimensionale Diskriminierung im Fokus der Rechtsforschung.* In: Apostolovski, V., Meier, I., Philipp, S., Schmidlechner, K. M. & Starl, K. (Herausgeber) Intersektionelle Benachteiligung und Diskriminierung. Nomos, Baden-Baden, pages 161–178.

Ernst & Young (2017) *EMEIA gender transition. A tool kit.*

Fausto-Sterling, A. (1992) *Myths of Gender: Biological Theories About Women and Men.* Basic Books, New York.

Fausto-Sterling, A. (2000) *Sexing the Body: Gender Politics and the Construction of Sexuality.* Basic Books, New York.

Foroutan, N. (2019) *Die postmigrantische Gesellschaft. Ein Versprechen der pluralen Demokratie.* Transcript, Bielefeld.

Fraser, N. & Honneth, A. (2003) *Umverteilung oder Anerkennung. Eine politisch-philosophische Kontroverse.* Suhrkamp: Frankfurt am Main.

Fogarty, A. A. & Zheng, L. (2018) *Gender ambiguity in the workplace: Transgender and gender-diverse discrimination.* ABC-CLIO, Santa Barbara.

FRA – European Union Agency for Fundamental Rights (2014) *Being Trans in the European Union. Comparative analysis of EU LGBT survey data.* Publication Office of the European Union, Luxembourg. Available online at: https://fra.europa.eu/sites/default/files/fra-2014-being-trans-eu-comparative-0_en. pdf, checked on 5 August 2020.

FRA – European Union Agency for Fundamental Rights (2020) *A long way to go for LGBTI Equality. Data explorer.* Available online at: https://fra.europa.eu/en/data-and-maps/2020/lgbti-survey-data-explorer, checked on 5 August 2020.

Franzen, J. & Sauer, A. (2010) *Benachteiligung von Trans*Personen, insbesondere im Arbeitsleben.* Published by the Federal Anti-Discrimination Agency. Available online at: https://www.antidiskriminierungsstelle. de/SharedDocs/Downloads/DE/publikationen/Expertisen/Expertise_Benachteiligung_von_Trans_per- sonen.pdf?__blob=publicationFile&v=3, checked on 5 August 2020.

Frketić, V. & Baumgartinger, P. P. (2008) *Transpersonen am Österreichischen Arbeitsmarkt.* Diskursiv, Wien. Available online at: https://www.transx.at/Dokumente/TransAmArbeitsmarkt_2008.pdf, checked on 10 August 2020.

Frohn, D. & Meinhold, F. (2016) *Spezifika der Arbeitssituation von Trans*-Beschäftigten in Deutschland auf Grundlage von qualitativen Interviews mit Trans*-Experten_innen.* Institut für Diversity- & Antidiskrimi- nierungsforschung, Köln. Available online at: https://www.diversity-institut.info/downloads/IDA_Re- sults_Report_Qual_Subproject_Trans-Employees_170517_DF.pdf, checked on 5 August 2020.

Frohn, D., Meinhold, F. & Schmidt, C. (2017) *Out im Office?! Sexuelle Identität und Geschlechtsidentität, (Anti-)Diskriminierung und Diversity am Arbeitsplatz.* Institut für Diversity- & Antidiskriminierungsfor- schung, Köln. Available online at: https://www.diversity-institut.info/downloads/IDA_Out-im-Office_ Web_180811.pdf, checked on 5 August 2020.

Frohn, D., Wiens, M. & Buhl, S. (2019) *Spezifika der Arbeitssituation von Inter*-Beschäftigten in Deutsch- land auf Grundlage von qualitativen Interviews mit inter* Experten_innen.* Institut für Diversity- & An- tidiskriminierungsforschung, Köln. Available online at: https://www.diversity-institut.info/downloads/ IDA_Ergebnisbericht_Qual-Teilprojekt_Inter_200115.pdf, checked on 5 August 2020.

Fuchs, W., Ghattas, D.C., Reinert, D. & Widmann, C. (2012) *Studie zur Lebenssituation von Transsexuellen in Nordrhein-Westfalen.* Available online at: https://www.trans-kinder-netz.de/files/pdf/Augstein%20 Maerz%202013.pdf, checked on 6 September 2020.

Fuchs, W., Kempe-Schälicke, C.-H., Richter, E. & Franzen, J. (2017) *Gutachten: Geschlechtliche Vielfalt im öffentlichen Dienst. Empfehlungen zum Umgang mit Angleichung und Anerkennung des Geschlechts im öffentlichen Dienst.* Bundesverband Trans, Berlin. Available online at: https://www.bmfsfj.de/blob/116512/ a6ba369ebb6df06acdf04547d61dedbc/imag-band-10-gender-diversity-in-public-service-data.pdf, checked on 5 August 2020.

Fütty, J. J. T. (2010) "Challenges posed by transgender – passing within ambiguities and interrelations". *Graduate Journal of Social Studies*, Volume 7, Number 2, pages 57–75.

Fütty, J. J. T. (2019) *Gender und Biopolitik. Normative und intersektionale Gewalt gegen Trans*Menschen.* Transcript, Bielefeld.

Gahleitner, S. B. (2005) "Die Qualitative Inhaltsanalyse als flexible Auswertungsmethode in der Sozialfor- schung". In: Gahleitner, S. B., Gerull, S., Petuya Ituarte, B., Schambach-Hardtke, L. & Streblow, C. (Heraus- geber) *Einführung in das Methodenspektrum sozialwissenschaftlicher Forschung.* Schibri, Uckerland, pages 151–161.

Geijtenbeek, L. & Plug, E. (2018) "Is there a penalty for registered women? Is there a premium for regis- tered men? Evidence from a sample of transsexual workers". *European Economic Review*, Volume 109, pages 334–347.

Ghattas, D. C. (2015) *Standing up for the human rights of intersex people – how can you help?* ILGA Europe & OII Europe, Belgium.Available online at: https://www.ilga-europe.org/sites/default/files/how_to_be_a_great_intersex_ally_a_toolkit_for_ngos_and_decision_makers_december_2015_updated.pdf, checked on 5 August 2020.

Ghattas, D. C. (2019) *Protecting intersex people in Europe. A Toolkit for Law and Policymakers*. ILGA Europe & OII Europe, Belgium. Available online at: https://oiieurope.org/de/protecting-intersex-people-in-europe-a-toolkit-for-law-and-policy-makers/, checked on 5 August 2020.

Ghattas, D. C., Kromminga, I. A., Matthigack, E. B. & Mosel, E. T. (2015) *Inter* und Sprache. Von „Angeboren" bis „Zwitter"*. TransInterQueer, Berlin. Available online at: http://www.transinterqueer.org/download/Publikationen/InterUndSprache_A_Z.pdf, checked on 5 August 2020.

Gomolla, M. (2019) "Direkte und indirekte, institutionelle und strukturelle Diskriminierung". In: Scherr, A., El-Mafaalani, A. & Yüksel, G. (editors) *Handbuch Diskriminierung*. Springer, Wiesbaden, pages 133–156.

Grant, J. M., Mottet, L. A., Tanis, J., Harrison, J., Herman, J. L. & Kesiling, M. (2011) *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*. National Center for Transgender Equality and National Gay and Lesbian Task Force, Washington. Available online at: https://www.thetaskforce.org/wp-content/uploads/2019/07/ntds_full.pdf, checked on 5 August 2020.

Gregor, A. (2015) *Constructing Intersex. Intergeschlechtlichkeit als soziale Kategorie*. Transcript, Bielefeld.

Grossman, A. H., D'augelli, A. R. & Frank, J. A. (2011) "Aspects of Psychological Resilience among Transgender Youth". *Journal of LGBT Youth*, Volume 8, Number 2, pages 103–115.

Ha, K. N. (2007) "People of Color: Koloniale Ambivalenzen und historische Kämpfe." In: Ha, K. N., al-Samarai, N. L. & Mysorekar, S. (Herausgeber): re/visionen: *Postkoloniale Perspektiven von People of Color auf Rassismus, Kulturpolitik und Widerstand in Deutschland*. Münster: Unrast, 31–40.

Haug, F. (2015) *Der im Gehen erkundete Weg. Marxismus-Feminismus*. Argument, Berlin.

Hechler, A. (2015) "Intergeschlechtlichkeit in Bildung, Pädagogik und Sozialer Arbeit". In: Sauer, A. T. et al. (Herausgeber) *Gutachten: Begrifflichkeiten, Definitionen und disziplinäre Zugänge zu Trans- und Intergeschlechtlichkeiten*. Bundesministerium für Familie, Senioren, Frauen und Jugend, Berlin, pages 63–75. Available online at: https://www.bmfsfj.de/blob/93956/ba3f7d5070103da9f2b62d08b23b2bac/imag-band-1-opinion-terms-data.pdf, checked on 5 August 2020.

Heerdegen, D. & Höhne, M. S. (2017) "On Normativity and Absence: Representation of lgbti* in textbook research". In: Bock, A. & Fuchs, E. (Herausgeber) *Handbook of Textbook Studies*. Palgrave Macmillan, New York, pages 239–249.

Hill Collins, P. (1999) *Black Feminist Thought. Knowledge, Consciousness, and the Politics of Empowerment*. Routledge, New York.

Hill Collins, P. & Bilge, S. (2016) *Intersectionality*. Polity Press: Malden.

Hindemith, S., Leidinger, C., Radvan, H. & Roßhart, J. (2019) *Wir* hier. Lesbisch, schwul und trans* zwischen Hiddensee und Ludwiglust. Ein Lesebuch zu Geschichte, Gegenwart und Region.* Available online at: https://www.un-sichtbar-mv.de/wp-content/uploads/2020/02/Wir-hierInternet.pdf, checked on 5 August 2020.

Hoenes, J., Januschke, E. & Klöppel, U. (2019) *Häufigkeit normangleichender Operationen "uneindeutiger" Genitalien im Kindesalter. Follow-Up Studie.* Ruhr Universität Bochum, Bochum. Available online at: https://www.bmfsfj.de/blob/136860/54ea839a1a2894a58ba75db04c7be43b/studie-zu-normangleichen-den-operations-ambiguous-genitalia-in-childhood-data.pdf, checked on 5 August 2020.

Hoenes, J., Sauer, A. & Fütty, T. J. (2019) *Dritte Option beim Geschlechtseintrag für alle?* Bundesvereinigung Trans* e.V., Berlin.

Höhne, M. S. (2017) "Un_mögliches Passing. Das Nadelöhr der Norm." In: Nagelschmidt, I., Borrego, B., Majewski, D. & König, L (Herausgeber) *Geschlechtersemantik und Passing be- und hinterfragen.* Peter Lang Verlag, Frankfurt am Main, pages 21–40.

Höhne, M. S. & Klein, T. (2019) "Disrupting Invisibility Fields – Provincializing 'Western Code' Trans* Narratives". *Open Gender Journal*, Volume 3.

hooks, b. (1992) *Black Looks. Race and Representation.* South End Press, Boston.

HRC – Human Rights Campaign (2016) *Sample Restroom Policy.* Available online at: https://assets2.hrc.org/files/assets/resources/HRC_Sample_Restroom_Policy_and_Talking_Points_for_Managers.pdf?_ga=2.105817034.876807843.1596727894-1308473859.1596727894, checked on 7 September 2020.

Intersexuelle Menschen e.V. (2008) *Schattenbericht zum 6. Staatenbericht der Bundesrepublik Deutschland zum Übereinkommen der Vereinigten Nationen zur Beseitigung jeder Form der Diskriminierung der Frau (CEDAW).* Verfügbar unter: https://www.trans-kinder-netz.de/files/pdf/Augstein%20Maerz%202013.pdf, checked on 6 September 2020.

Intersexuelle Menschen e.V. (2020) *Fakten zu Intergeschlechtlichkeit. Mit welcher Identität und mit welchem Personenstand leben intergeschlechtliche Menschen?* Available online at: https://www.selbstvers-taendlich-vielfalt.de/wp-content/uploads/2020/07/faktenpapier-1-imev.pdf, checked on 25 September 2020.

Jäger, S. (1999) *Kritische Diskursanalyse. Eine Einführung.* DISS, Duisburg.

James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L. & Anafi, M. (2016) *The Report of the 2015 U.S. Transgender Survey.* National Center for Transgender Equality, Washington. Available online at: https://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF, checked on 5 August 2020.

Kasten, L. (2019) *Bedeutung der „Dritten Option" in der Universität. Abbau von Diskriminierung nicht-binärer und binärer inter- und transgeschlechtlicher Personen.* Available online at: https://www.uni-kassel.de/intranet/fileadmin/datas/intranet/gleichstellung/dokumente/Gutachten_3._Geschlechtsoption_UniK_2019.pdf, checked on 5 August 2020.

Keller, R. (2007) *Diskursforschung: Eine Einführung für SozialwissenschaftlerInnen.* VS Verlag für Sozialwissenschaften, Wiesbaden.

Klöppel, U. (2010) *XX0XY ungelöst. Hermaphroditismus, Sex und Gender in der deutschen Medizin.* Transcript, Bielefeld.

Klöppel, U. (2016) *Zur Aktualität kosmetischer Operationen „uneindeutiger" Genitalien im Kindesalter.* Zentrum für transdisziplinäre Geschlechterstudien, Berlin. Available online at: https://www.gender. hu-berlin.de/de/publikationen/gender-bulletin-broschueren/bulletin-texte/texte-42/kloeppel-2016_ zur-aktualitaet-kosmetischer-genitaloperationen, checked on 5 August 2020.

Klose, A. & Merx, A. (2010) *Positive Maßnahmen zur Verhinderung oder zum Ausgleich bestehender Nachteile im Sinne des § 5 AGG.* Published by the Antidiskriminierungsstelle des Bundes. Available online at: http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/Expertisen/ Expertise_Positive_Ma%C3%9Fnahmen.pdf?blob=publicationFile, checked on 5 August 2020.

Krause, A., Rinne, U. & Zimmermann, K.F. (2014) *Abschlussbericht des Projekts "Anonym Bewerben in Baden-Württemberg".* Institut zur Zukunft der Arbeit, Bonn. Available online at: https://sozialministerium.baden-wuerttemberg.de/fileadmin/redaktion/m-sm/intern/downloads/Downloads_IntM-Antidiskriminierung/IZA_Abschlussbericht_BW_final.pdf, checked on 25 September 2020.

Kroh, M., Kühne, S., Kipp, C. & Richter, S. (2017) "Einkommen, soziale Netzwerke, Lebenszufriedenheit: Lesben, Schwule und Bisexuelle in Deutschland". *DIW Wochenbericht*, Volume 35, pages 687–698. Available online at: https://www.diw.de/documents/publikationen/73/diw_01.c.563767.de/17-35-3.pdf, checked on 19 September 2020.

LADS – Landesstelle für Gleichbehandlung gegen Diskriminierung Berlin (no date available) *Trans* in Arbeit.* Available online at:https://www.berlin.de/sen/lads/schwerpunkte/lsbti/trans-in-arbeit/, checked on 6 September 2020.

LADS – Landesstelle für Gleichbehandlung gegen Diskriminierung Berlin (2020) *Materialien zum Thema Transgeschlechtlichkeit, Trans* in Arbeit.* Available online at: https://www.berlin.de/sen/lads/ schwerpunkte/lsbti/materialien/transgeschlechtlichkeit/, checked on 5 August 2020.

Lembke, U. & Liebscher, D. (2014) "Postkategoriales Antidiskriminierungsrecht? – Oder: Wie kommen Konzepte der Intersektionalität in die Rechtsdogmatik?". In: Apostolovski, V., Meier, I., Philipp, S., Schmidlechner, K. M. & Starl, K (Herausgeber) *Intersektionelle Benachteiligung und Diskriminierung.* Nomos, Baden-Baden, pages 261–290.

Leppel, K. (2016) "The labor force status of transgender men and women". International Journal of Transgenderism, Volume 17, Number 3–4, pages 155–164.

LesMigraS (2012) *"Nicht so greifbar und doch real". Eine quantitative und qualitative Studie zu Gewalt- und (Mehrfach-)Diskriminierungserfahrungen von lesbischen, bisexuellen Frauen und Trans* in Deutschland.* LesMigraS, Berlin. Available online at: https://lesmigras.de/tl_files/lesbenberatung-berlin/Violence(Docs,Essays...)/Documentation Study web_safe.pdf, checked on 6. September 2020.

Liebscher, D. & Kobes, R.A. (2010) *Beschwerdestelle und Beschwerdeverfahren nach § 13 AGG*. Antidiskriminierungsstelle des Bundes, Berlin.

Lugk, C., Siemens, L. & Fink, N. (2018) *Abinäre Personen in der Beratung. Eine praktische Handreichung für Berater*innen und Multiplikator*innen*. Queeres Netzwerk Niedersachsen, Göttingen. Available online at: https://q-nn.de/wp-content/uploads/2019/05/TiN_Brosch%C3%BCre_Abin%C3%A4rePersonen_Online-1.pdf, checked on 5 August 2020.

Mangold, A. K.; Markwald, M. & Röhner, C. (2019) *Rechtsgutachten zum Verständnis von „Varianten der Geschlechtsentwicklung" in § 45 Personenstandsgesetz*. Available online at: https://www.dgti.org/images/pdf/Mangold_Markwald_Rhner_Gutachten 45b_PStG.pdf, checked on 12 August 2020.

Marvell, R., Broughton., A, Breese, E. & Tyler, E. (2017) *Supporting trans employees in the workplace*. ACAS. Available online at: https://www.acas.org.uk/supporting-trans-employees-in-the-workplace/html, checked on 7 September 2020.

Mayring, P. (2015) *Qualitative Inhaltsanalyse: Grundlagen und Techniken*. Beltz, Weinheim.

Medizinischer Dienst des Spitzenverbanddes Bund der Krankenkassen e.V. (MDS) (2009) *Richtlinie des GKV-Spitzenverbandes zur Sicherung einer Begutachtung nach § 282 Absatz 2, Satz 3 SGB V*. Begutachtungsanleitung Geschlechtsangleichende Maßnahmen bei Transsexualität: MDS. Essen.

Meyer, I. H. (2003) "Prejudice, social stress, and mental health in lesbian, gay and bisexual population: Conceptual issues and research evidence". *Psychological Bulletin*, Volume 129, Number 5, pages 674–697.

Meyer, K. (2016) "Chancengleichheit". In: Goppel, A., Mieth, C. & Neuhäuser, C. (Herausgeber) *Handbuch Gerechtigkeit*. Springer, Heidelberg, pages 164–167.

Miller, L. R. & Grollman, E. A. (2015) "The Social Costs of Gender Nonconformity for Transgender Adults: Implications for Discrimination and Health". *Sociological Forum*, Volume 30, Number 3, pages 809–831.

Misoch, S. (2019) *Qualitative Interviews*. De Gruyter, Oldenbourg.

Mizock, L., Dawson Woodrum, T., Riley, J., Sotilleo, E. A., Nuen, N. & Ormerod, A. J. (2017) "Coping with transphobia in employment: Strategies used by transgender and gender-diverse people in the United States". *International Journal of Transgenderism*, Volume 18, Number 3, pages 282–294, DOI: 10.1080/15532739.2017.1304313.

Motmans, J., de Biolley, I. & Debunne, S. (2010) *Being transgender in Belgium. Mapping the social and legal situation of transgender people*. Institute for the equality of women and men, Brüssel.

Netzwerk Feuerwehrfrauen (no date available) *Frequently Asked Questions*. Available online at: https://www.feuerwehrfrauen.de/service/faq/, checked on 7 September 2020.

NHS Devon Partnership (2018) *Staff Trans, Non-Binary and Intersex Equality Policy*. Available online at: https://www.dpt.nhs.uk/resources/policies-and-procedures/clinical/staff-trans-non-binary-and-intersex-equality, checked on 5 August 2020.

Orlov, A. (2017) *There are more than 160.000 US businesses with gender-neutral restrooms.* Mic, 23 June 2017. Available online at: https://www.mic.com/articles/180693/there-are-more-than-160000-us-businesses-with-gender-neutral-restrooms#.YwZk4189a, checked on 7 September 2020.

Orth, B. (2018) *Queer. Works. Dialog, Vernetzung und Bestandaufnahme zur Situation queerer Menschen auf dem Berliner Arbeitsmarkt.* Camino, Berlin. Available online at: https://camino-werkstatt.de/downloads/QueerWorks_WEB.pdf, checked on 5 August 2020.

Ozturk, M. B. & Tatli, A. (2016) "Gender identity inclusion in the workplace: broadening diversity management research and practice through the case of transgender employees in the UK". *The International Journal of Human Resource Management*, Volume 27, Number 8, pages 781–802.

Pitcher, E. N. (2017) "'There's stuff that comes with being an unexpected guest': experiences of trans* academics with microaggressions". *International Journal of Qualitative Studies in Education*, Volume 30, Number 7, pages 688–703.

Plett, K. (2019) *Rechtswissenschaftliche Expertise zum 3. Geschlechtseintrag, erstellt im Auftrag der Freien und Hansestadt Hamburg.*

Porsche, S. (2016) *Bedeutung, Auslegung und Realisierung des Konzepts der positiven Maßnahmen nach § 5 AGG im unionsrechtlichen Kontext.* Nomos, Baden-Baden.

PSAC – Public Service Alliance of Canada (2018) *Building trans-inclusive workplaces. A guide for managers, unions and workers.* Available online at: http://psacbc.com/sites/bc/files/psac-trans-inclusive-workplaces-2018.pdf, checked on 5 August 2020.

Risman, B. J. (2018) "Gender as a social structure". In: Risman, B. J., Froyum, C. M. & Scarborough, W. J. (Editors) *Handbook of the Sociology of Gender.* Springer, pages 19–43. DOI: 10.1007/978-3-319-76333-0.

Rommelspacher, Birgit (1998) "Dominanzkultur. Texte zu Fremdheit und Macht". Orlanda Frauenverlag.

Sacksofsky, U. (2010) *Mittelbare Diskriminierung und das Allgemeine Gleichbehandlungsgesetz.* Published by the Federal Anti-Discrimination Agency Available online at: http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/Expertisen/Expertise_Mittelbare_Diskriminierung.pdf?blob=publicationFile, checked on 5 August 2020.

SAP (2014) *Richtlinien zur Geschlechtsangleichung.* Available online at: https://www.charta-der-vielfalt.de/uploads/tx_dreipccdvdiversity/Guidelines on GenderReassignment.pdf, checked on 5 August 2020.

Sauer, A. T. (2018) *Equality Governance via Policy Analysis? The implementation of Gender Impact Assessment in the European Union and Gender-based Analysis in Canada.* Transcript, Bielefeld.

Scottish Transgender Alliance (2008) *Transgender Experiences in Scotland.* Equality Network, Edinburgh. Available online at: https://www.scottishtrans.org/wp-content/uploads/2013/03/staexperiencessummary 03082.pdf, checked on 10 August 2020.

de Silva, A. (2019) *Negotiating the Borders of the Gender Regime. Developments and Debates on Trans(sexuality) in the Federal Republic of Germany.* Transcript, Bielefeld.

Spivak, G. C. (1988) "Can the Subaltern Speak?". In: Nelson, C. & Grossber, L. (Herausgeber) *Marxism and the Interpretation of Culture*. University of Illinois Press, Urbana, pages 271–313.

Statistisches Bundesamt (2020) *Gender Pay Gap 2019: Frauen verdienten 20 Prozent weniger als Männer.* Pressemitteilung Nummer 097 vom 16. März 2020.Available online at: https://www.destatis.de/DE/ Presse/Pressemitteilungen/2020/03/PD20_097_621.html, checked on 7 September 2020.

Statistisches Bundesamt (2018) *Pressemitteilung Nummer 421 vom 31. Oktober 2018. 19 Prozent der Bevölkerung Deutschlands vor Armut oder sozialer Ausgrenzung bedroht.* Available online at: https://www. destatis.de/DE/Presse/Pressemitteilungen/2018/10/PD18_421_634.html, checked on 10 August 2020.

TGEU Transgender Europe (2018) "Trans Rights Europe Map." https://tgeu.org/wp-content/up-loads/2018/05/MapB_TGEU2018_Online.pdf, checked on 5 August 2020.

Thüsing, G. (2018), in: Münchener Kommentar zum Bürgerlichen Gesetzbuch, Band 1, Allgemeines Gleichbehandlungsgesetz, 8. Auflage 2018.

TotalJobs (2016) *Trans Employee Experiences Survey*. Available online at: https://www.totaljobs.com/ insidejob/trans-employee-survey-report-2016/, checked on 5 August 2020.

TrIQ – TransInterQueer (no date available) *Selbstbestimmter Geschlechtseintrag für alle Menschen und Verbot von geschlechtsverändernden Operationen an Kindern jetzt.* Available online at http://www.transin-terqueer.org/allgemein/selbstbestimmter-geschlechtseintrag-fuer-alle- human-and-ban-sex-changing-surgeries-on-children-now/, checked on 12 August 2020.

TrIQ – TransInterQueer (2020) *BGH verwehrt nicht-binärer Person die Streichung des Geschlechts- eintrags nach § 45b PStG und verweist auf TSG – TrIQ: "Der Beschluss ist viel Kritik wert".* Available online at: http:// www.transinterqueer.org/allgemein/bgh-verwehrt-nicht-binaerer-person-die-deleting-the-sex-entry-after-§-45b-pstg-and-referencing-tsg-triq-of-resolution-is-much-criticism-worth/, checked on 5 August 2020.

TSG Reform (2012) *Forderungspapier zur Reform des Transsexuellenrechts*. Available online at: http://www. tsgreform.de/, checked on 12 August 2020.

Turß, D. (2020) *Mein Geschlecht bestimme ich!* Available online at: https://freiheitsrechte.org/selbstbestim-mter-geschlechtseintrag/, checked on 5 August 2020.

Uhlala Group (2020) *LGBT+ Diversity Index 2019. Pressemitteilung vom 26. Februar 2020.* Available online at: https://uhlala.com/dax30/, checked on 7 September 2020.

Van Borm, H. & Baert, S. (2018). "What drives hiring discrimination against transgenders?" *International Journal of Manpower*, Volume 39, Number 4, pages 581–599.

Vennix, P. (2010) *Transgenders en werk. Een onderzoek naar de arbeidssituatie van transgenders in Neder-land en Vlaanderen.* Available online at: https://www.transgendernetwerk.nl/wp-content/up-loads/2015/08/transgenders-en-werk.pdf, checked on 6 September 2020.

Vereinte Nationen (2008) Übereinkommen über die Rechte von Menschen mit Behinderung. Available online at: https://www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/PDF/DB_Human_rights_protection/CRPD/CRPD_Convention_and_Facultative_Protocol.pdf, checked on 5 August 2020.

Voß, H.-J. (2011) *Making Sex Revisited. Dekonstruktion des Geschlechts aus biologisch-medizinischer Perspektive.* Transcript, Bielefeld.

Voß, H.-J. (2014) *Wenn rechtspopulistische Kreise gewinnen: Zu den Debatten um Sexualpädagogik und Antidiskriminierung.* Available online at: https://dasendedessex.de/wenn-rechtpopulistische-winning-circles-to-the-debates-about-sexual-education-and-anti-discrimination/, checked on 5 August 2020.

West, C. & Zimmerman, D. H. (1987) "Doing Gender". *Gender & Society*, Volume 1, Number 2, pages 125–151.

Whittle, S., Turner, L. & Al-Alami (2007) *Engendered Penalties: Transgender and Transsexual People's Experiences of Inequality and Discrimination.* Equalities Review, Wetherby.

Whittle, S., Turner, L., Combs, R. & Rhodes, S. (2008) *Transgender EuroStudy: Legal Survey and Focus on the Transgender Experience of Health Care.* ILGA, Brussels.

Whittle, S. & Turner, L. (2017) *Trans-inclusive Workplaces. Guidelines for Employers and Businesses.* Transgender Europe. Available online at: https://tgeu.org/wp-content/uploads/2018/06/TGEU_transinclusive-workplaces_web201806.pdf, checked on 5 August 2020.

Windata (no date available) *Soziales Engagement & Sponsoring.* Available online at: https://www.windata.de/site/unternehmen/sponsoring.asp, checked on 7 September 2020.

Zehnder, K. (2010) *Zwitter beim Namen nennen. Intersexualität zwischen Pathologie, Selbstbestimmung und leiblicher Erfahrung.* Transcript, Bielefeld.

6. List of abbreviations

ADS	Federal Anti-Discrimination Agency (Deutsch)
AGG	General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz)
ArbStättV	Workplaces Ordinance (Arbeitsstättenverordnung)
AWO	Workers, Welfare Association (Arbeiterwohlfahrt)
BAuA	Federal Institute for Occupational Safety and Health (Bundesanstalt für Arbeitsschutz und Arbeitsmedizin)
BetrVG	Works Constitution Act (Betriebsverfassungsgesetz)
BGB	German Civil Code (Bürgerliches Gesetzbuch)
BVerfG	Federal Constitutional Court (Bundesverfassungsgericht)
CSD	Christopher Street Day
dgti	German Society for Transidentity and Intersexuality (Deutsche Gesellschaft für Transidentität und Intersexualität)
DSGVO	General Data Protection Regulation (Datenschutz-Grundverordnung)
FRA	European Union Agency for Fundamental Rights (Agentur der Europäischen Union für Grundrechte)
GG	Basic Law for the Federal Republic of Germany (Grundgesetz)
ICD	International Classification of Diseases
IDAHOBIT	International Day Against Homophobia, Biphobia, Interphobia and Transphobia (Internationaler Tag gegen Homo-, Bi-, Inter- und Transphobie)
KMU	small and medium-sized firms (kleine und mittlere Unternehmen)
MDK	Health Insurance Medical Service (Medizinischer Dienst der Krankenkassen)
LGBTIQ	lesbian, gay, bisexual, transgender, intersex, queer (lesbisch, schwul, bisexuell, trans*, inter*, queer)
OII	Organization Intersex International
PStG	Personal Statute Law (Personenstandsgesetz)

SGB	Social Code (Sozialgesetzbuch)
StGB	Criminal Code (Strafgesetzbuch)
TrIQ	TransInterQueer e.V.
TSG	Transsexuals Act (Transsexuellengesetz)
TVöD	Collective agreements for the public service (Tarifvertrag für den öffentlichen Dienst)
UN-BRK	UN Convention on the Rights of Persons with Disabilities (Behindertenrechtskonvention der Vereinten Nationen)