FTR Now

Insights for Municipal Organizations on New Government Inclusivity Initiatives Targeting Gender Identification Information

Date: July 20, 2016

Recently, both the Ontario and federal governments launched significant new initiatives intended to promote inclusivity and ensure equitable treatment of trans and non-binary gendered persons, with a particular focus on gender identification information. Ontario has already implemented or announced changes to certain public-facing official documents, and public consultations will soon be underway to help the government develop an official policy on the use, collection, retention and display of gender identification information by its ministries.

In this *FTR Now*, we discuss these important initiatives and how they may impact employers, agencies and service providers across the Municipal sector.

The Ontario and the Federal Government Announcements

On June 29, 2016, the Ontario government announced details about various gender inclusivity initiatives currently underway. These include:

- Effective June 13, 2016, removal of gender identification information from the face of Ontario health cards
- Commencing in early 2017, offering a new, neutral “X” gender identification display option on Ontario Driver’s Licences for those individuals who do not identify as exclusively male (M) or female (F)
- Conducting public and stakeholder consultations this Summer to gather input for the development of a policy on how Ontario government ministries collect, use, retain and display sex and gender information on public-facing government forms (i.e. official documents) and products, with a view to announcing a policy that applies to all ministries this Fall.

Shortly thereafter, the federal government also announced that it is exploring the use of gender-neutral options on federal identity documents (e.g. passports or Canada Revenue Agency documents), and is conducting a review of all the circumstances in which it requires or produces identity documents to ensure individuals whose gender identity does not match the binary standard are not excluded.

What Do These Initiatives Mean for Municipalities and Municipal Agencies?

The new gender identity initiatives outlined above signal an increased focus on gender identity issues – at both the provincial and federal levels – and are an important step towards greater inclusivity across jurisdictions. While it remains to be seen what further action either government may take to mandate reforms within the broader public or private sectors, your organization may wish to proactively revisit current gender inclusivity efforts, and consider implementing the measures outlined below to plan for potential reforms.

Develop a Policy – and Ensure Compliance

Consider developing a policy for your organization’s collection, use, retention and display of sex and gender information on public-facing official documents, employment forms, tax and application forms and other communications. Be sure that the scope of your policy applies across all formats, including to electronic and mobile materials.

The policy development process may include outreach to stakeholders within your community and organization, including employees, agencies, associations, third party support organizations, residents and members of the public.

If a policy is already in place, ensure a periodic compliance review or complaint process is in place.

Review Your Organization's Human Resources Materials

Consider providing gender-neutral identifier options such as "X" where possible, or eliminating gender identification information where it is unnecessary. Examples of human resources materials that may be affected include:

- employment application forms, template PDFs and administrative systems
- electronic databases and IT systems
- benefits enrolment forms and handbooks
- salutation preferences for communications (e.g. Mr./Ms/Mrs.)
- references to "he/him" or "she/her" in employee handbooks, training materials and communications

Review Public-Facing Documents, Communications and Publications

In addition to the more typical employment-related documents and forms highlighted above, your organization almost certainly publishes an array of official documents, electronic forms and other related resources that may also require review. For example:

- applications, permits (e.g. building, parking, housing) and license forms
- assessment services (e.g. property tax)
- customer service resources and tools, in all formats
- childcare and community services, enrolment forms and related communications
- grants

Police and Other Emergency Services

Certain pending measures with respect to Ontario Driver's Licences impact upon current practices on the collection, use and retention of sex and gender information by police services. In addition to the measures outlined above, these organizations should consider:

- matter intake forms and templates
- practices and protocols relating to collection, creation and retention of identity information for records and police files

Concluding Remarks

With the Ontario government planning to announce a gender identification information policy for ministries later this year, the movement towards gender inclusivity in this area is well underway. Prudent employers and service providers should take this early opportunity to examine their own practices and protocols to ensure that they adequately reflect key diversity principles.

We would be pleased to discuss your organization's policy and obligations with respect to the use, retention or display of sex and gender information, employee training on "gender expression" and "gender identity" issues more generally, or provide advice on the implementation of other workplace gender inclusivity measures such as change room and restroom accommodations. Please contact Mark H. Mason at 416.864.7280, Michael J. Kennedy at 416.864.7305, Glenn P. Christie at 519.883.3125, Michael A. Hines at 416.864.7248 or your regular Hicks Morley lawyer.

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