



The British  
Chamber of Commerce  
in Hong Kong  
香港英商會

The Secretary, Inter-departmental Working Group on Gender Recognition  
5th Floor, East Wing, Justice Place  
18 Lower Albert Road  
Central, Hong Kong

31<sup>st</sup> October 2017

**The British Chamber of Commerce in Hong Kong Response to:  
Inter-Departmental Working Group on Gender Recognition Consultation Paper: Part 1  
Gender Recognition**

Dear Secretary,

The British Chamber's membership, which comprises both international and local companies, are major investors and employers in Hong Kong. The comments below are offered in a positive spirit. We are strongly pro-Hong Kong and believe it remains a great place to do business. We welcome the efforts being made by the Government to address the issue of gender recognition; and note that this issue has, or is being, addressed, in many other leading jurisdictions. This is an important issue, which bears on Hong Kong's ability to maintain its leading position as a business-friendly environment open to, and able to benefit from, the widest possible range of talent.

Gender recognition is a significant social policy issue. We recognise that there are a range of views on this subject across Hong Kong, which the Government will need to take into account. The Chamber believes that having access to a full range of talent is crucial for business success and there should therefore be as few barriers as possible for individuals choosing to work and live here.

Our comments are given with a focus on the implications of a gender recognition scheme in Hong Kong from the perspective of diversity and talent; and on its potential impact for employers and employees. This is reflected in the questions the Chamber has and has not responded to in the consultation paper.

**Implications and Possible Consequences of a Gender Recognition Scheme from a Businesses Perspective**

Talent attraction and retention is a vital aspect of running all businesses – whether large multinationals, or fledgling startups. In Hong Kong, where competition is strong, and the pool of talent is small, it is crucial for businesses that there are not social or cultural barriers which may deter individuals from wanting to live and work here. There is extensive global research indicating the proven economic benefits, including higher productivity at individual, company and country level, of encouraging diversity and inclusion, and rejecting discrimination.

If a gender recognition scheme were to be introduced, businesses would need to ensure that appropriate governance structures were in place, so that issues such as dealing with transgender discrimination were dealt with appropriately; identify how to support transgender employees in transition; and foster the widest possible equality in talent management. Clarity would also be needed to ensure businesses understand how to legally identify and classify employees where legal documents may not reflect their personally declared status. Global companies would need to align overarching corporate policies with local policies to ensure consistency. Government support and guidance to Hong Kong companies in these areas would be an important element in any scheme's introduction.

**Specific Issues for Consultation**

**Issue 1: Whether a gender recognition scheme should be introduced in Hong Kong**

The Chamber would support the introduction of such a scheme, which should be implemented with a non-intrusive, self-declaration method; and in which all gender options are incorporated.



Government could consider for example Canada's recent inclusion of 'X' as a gender option. This example provides individuals with freedom to help ensure the fullest participation of every employee in the workplace.

#### **Issue 7: Residency requirement for gender recognition**

We believe any gender recognition scheme should be open to all residents, whether visitors, non-permanent residents, or permanent residents; and that residency status should not be a factor.

#### **Issue 9: Marital status requirement for gender recognition**

If a gender recognition scheme is introduced, there should not be requirements relating to the marital status of the applicant. However, this relates to wider issues on marriage equality which are addressed below.

#### **Issue 10: Parental status requirement for gender recognition**

If a gender recognition scheme is introduced, the parental status of the applicant should not be a key consideration.

#### **Issue 11: Recognition of foreign gender change**

As noted above, we believe that residency status should not be a factor in gender recognition. Gender change should be recognised equally between jurisdictions with similar criteria. This would ensure that there are no barriers for businesses to attract the widest range of talented individuals. This recognition should be extended to ensure that spouses have the same benefits they would in their home country.

#### **Other Issues and Considerations**

##### Additional medical and social costs if a gender recognition scheme is not introduced

The social and economic repercussions of not recognising individuals' gender are stark. Mental health problems are high for those suffering with gender identity disorder. Without a programme to help these people, the economic and social costs for treatment of the resulting associated mental health disorders such as depression, anxiety, and suicide attempts would be high.

##### Same-sex marriage

The introduction of a gender recognition scheme would have consequent implications for marriage law in Hong Kong. If the state invests in a person's gender reassignment, but subsequently does not allow them to marry someone of the same sex (if that is their orientation), this will have negative implications for Hong Kong's ability to retain and attract the talent it needs.

##### Wider equality

Consideration of the introduction of a gender recognition scheme naturally develops into a broader discussion around considerations for a comprehensive anti-LGBT+ discrimination law in the private sector (not just the public sector), and the case for a wider review of current legal frameworks. Especially from a business perspective, the recognition of foreign same-sex marriages, genders listed on foreign documentation, and providing equal spousal benefits/dependent visas regardless of gender, are crucial to retaining and attracting the widest possible range of talent, consistent with Hong Kong's positioning as 'Asia's World City'.

Yours sincerely,

Andrew Seaton  
Executive Director