

LGBTIQ

LGBTIQ+ INCLUSIVE PRACTICE TOOLKIT FOR COMMUNITY LEGAL CENTRES



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Introduction

Since the first Community Legal Centre (CLC) was set up in Australia in the early 1970s, CLCs have been committed to pushing for positive systemic social change and providing free legal services to the communities who need it most. In the last decade, there has been a significant cultural shift in the way LGBTQ+ communities and society more broadly understands and communicates about gender identity, sexual orientation and variations of physical sex characteristics (often described as intersex).

There have also been significant legal victories in the past two years including marriage equality, the end to forced trans divorce, the re: Kelvin trans stage 2 hormone treatment case (which has made it easier for younger trans and gender diverse people to access gender-affirming healthcare), and the national movement towards birth certificate law reform, including the recent changes to the law in Tasmania.

But there is still a long way to go.

LGBTQ+ communities continue to experience greater stigma and discrimination than many other communities in Australia, and the ongoing public debates around issues such as the Safe Schools programs, religious exemptions to anti-discrimination legislation and the rights of trans and gender diverse people to change their primary identity documents and access gender-affirming healthcare has an ongoing detrimental impact on the mental health and emotional wellbeing of LGBTQ+ communities. People with variations of sex characteristics (sometimes known as intersex) continue to endure forced and coercive medical interventions without their prior, personal informed consent, as well as ongoing stigmatisation, discrimination and violence in many areas of public life.

To ensure that CLCs have the knowledge and resources to serve LGBTQ+ communities in a respectful and inclusive way, the Victoria Law Foundation generously funded St Kilda Legal Service's LGBTQ Legal Service to create this inclusive practice toolkit. This guide is intended to be read and used by community lawyers, administrators, volunteers, union delegates and managers.

In addition, we acknowledge the expertise of our health justice partners at Thorne Harbour Health, Victoria's largest LGBTQ+ health organisation, who we have learnt so much from about inclusive practice, including working with LGBTQ+ people who use violence in intimate relationships, LGBTQ+ people experiencing drug and alcohol issues, and the range of additional challenges still faced by the HIV+ community in Australia today.

LGBTQ Legal Service would also like to acknowledge the work of the Federation of Community Legal Centres (FCLC), who supported us with their knowledge and expertise in developing this toolkit. In particular, we thank Natalie Hallam for her work in developing resources and policies for organisations to use, to keep LGBTQ+ clients and staff safe. The Federation advocates for and with CLCs across Victoria and supports members to provide inclusive and safe legal services. The National Accreditation Scheme (NAS), is a sector lead accreditation framework used by CLCs nationally. The Standards and Requirements of the NAS were considered during the development of this toolkit.

We wish to acknowledge that this toolkit was created on the stolen lands of the Wurundjeri and Boon Wurrung peoples of the Kulin nation whose sovereignty was never ceded. Always was, always will be Aboriginal land.





Why is inclusive practice important?

As a trans person myself, the experience of interacting with everyone from doctors, pharmacists, post office staff and government workers comes with an additional level of stress and risk, as I am constantly on the alert for cues as to whether the person I am speaking with is going to misgender me, mistreat me or refuse me service altogether.

And that's even with the privilege of being white, generally cis-passing, employed, able-bodied, living in stable housing and knowing my legal rights.

For a trans or gender diverse person experiencing homelessness, an acute mental health condition or complex trauma from parental and societal rejection, stepping into a CLC for the first time will likely be a very stressful experience. Our community will be actively looking for cues that you and your staff are not going to discriminate against them.

If you don't actively promote that your service is inclusive, many LGBTQ+ people will simply assume that it isn't, and won't access your service at all.

If you do take what's often seen as a first step by displaying a rainbow or trans flag at reception or on your email signature, LGBTQ+ people will likely take that to mean that you've trained your staff in the basics of LGBTQ+ inclusive practice, and that they can expect that your reception staff won't misgender them on arrival and the lawyer they speak to won't make assumptions about their sexual orientation or ask intrusive questions about their gender identity which have nothing to do with their legal issue at hand.

If anyone in your community legal centre does any of these things, then it's going to be even more disappointing and frustrating, as your visual indicators of inclusivity (flags, email signatures etc) are not reflective of actual inclusive practice, you have incorrectly advertised the nature of your service. You have asked someone to let their guard down, only to be offended or humiliated by yet another organisation.

Word will get around and your organisation will be considered untrustworthy and unsafe by many parts of the LGBTQ+ community, and they won't come to see you to ask for help again.

If a marginalised and stigmatised part of your community won't access your services, then you will simply not be reaching everyone in your area that needs help.

As CLCs battle for ongoing funding and stable accommodation across Australia in a difficult political landscape, it's vital that CLCs make sure that all of their staff and volunteers are trained in the basics of LGBTQ+ inclusive practice, legal issue spotting for LGBTQ+ communities and who their local LGBTQ+ organisations are and what they do.

To this end, I hope that you find this toolkit useful.

Sam Elkin

LGBTIQ Outreach Lawyer

St Kilda Legal Service

Understanding LGBTIQ+ basics

By Meri Leeworthy, LGBTIQ Legal Service Volunteer

Introduction

While we sometimes clumsily refer to the 'LGBTIQ community', in reality that simple phrase conceals a complex web of identities and physical characteristics interacting in innumerable ways. We are not one easily defined group. Our identities and bodies can shift and change in fluid ways throughout our lifetime, in the same way that everyone goes through transformations and finds new language for describing themselves. Our sexuality, gender identity or sex characteristics may be the most important part of our identity, or it might be a minor feature.

When approaching the topic of LGBTIQ+ inclusive practice, it is worth considering that regardless of how we identify, each of us is at a point in our own journey of education with no end point. There is no mark of certification that will ever capture the entirety of our experiences, so rather than seeing inclusive practice as a series of boxes to check, we should learn to move through life constantly developing new insights, pushing ourselves outside of our comfortable preconceptions. Moreover, there is not necessarily consensus within the so-called 'LGBTIQ community' on many issues, and this document cannot represent every perspective on every debate in anything close to an exhaustive manner. What it can provide is a roadmap, suggesting well-travelled paths for workers to continue on their educational journey and put these insights into practice.

What does LGBTIQ+ stand for?

The initials above stand for Lesbian, Gay, Bisexual, Transgender, Intersex and Queer. The plus sign serves to signify and acknowledge the inexhaustive nature of this collection of terms, the fact that language can and does evolve to find new terms for describing the diverse ways in which people can experience gender, sexuality, relationships and human bodies.

For anyone who has ever struggled to find the words to describe their feelings and desires in a social context that seems to reject any deviation from a given norm, it will be obvious that language plays a significant part in shaping our reality. It is for this reason that we emphasise careful and critical use of language in moving towards inclusive practice.

You can find a list of key terms below, and throughout this document.

The basics of sex and gender

Gender is a form of identity, meaning that it is a recognition that some aspects of ourselves are similar to those of others. Identities are one way of how we make sense of an alienating and complex social world, allowing us to form groups that are recognisable beyond our personal relationships. Gender identity might be something that we feel inside of ourselves, but it can also be something that we try to communicate to others through choices about our appearance and behaviour.

Even though most children are taught that humans are simply divided into 'men' and 'women', gender identities are a part of culture and are understood in different ways

around the world. What might be seen as feminine clothing in one culture might be seen as a traditionally masculine dress in another. Some cultures recognise five or more different gender identities. Gender identities can serve cultural purposes, and everybody has a unique way of understanding any gender that they might identify with.

Not everyone is comfortable with the gender label that they are assumed to identify with. Unfortunately, prejudices and social myths can pressure people into gender categories that do not feel right or comfortable. This social stigmatisation can lead to people feeling alienated, isolated or excluded, and this can have enormous impacts on mental health and quality of life.

Issues facing the intersex community

Many people with variations of sex characteristics are subjected to forced, coercive medical interventions without their free and informed personal consent. Such procedures, when not strictly medically necessary, violate a person's rights to security, bodily and mental integrity, health, sexual and reproductive rights, privacy, legal capacity and non-discrimination, as well as the right to be free from torture, ill-treatment and violence.¹

People with variations of sex characteristics are routinely subjected to discrimination, stigma and body shaming in our community, particularly in healthcare settings, sports, media and online dating platforms.²

Gender identities

In understanding trans and gender diverse experiences, it is important to know the difference between gender

identity and gender expression (also called gender presentation). Identity is internal – something that you cannot know unless a person tells you how they identify. On the other hand, gender expression is generally the parts of gender which are perceptible to others, including clothing and style as well as gesture and behaviour. The conflation of gender expression with gender identity is a major source of anxiety and pressure for many trans and gender diverse people. For somebody who is transitioning, this can be a time of experimentation as well as working through internal barriers and fears. That said, 'transitioning' can be understood as just another word for changing or evolving, so it can be seen as a lifelong process. When wondering how to refer to somebody, it is crucial to base your language and approach on the way the person identifies, rather than any assumptions that you may make about their presentation.

Key Terms

SEX ASSIGNED AT BIRTH

The determination of an infant's sex at birth, usually by doctors or midwives. A person's 'sex' describes a type of assigned differentiation that occurs in human bodies, such as 'male' and 'female'.

TRANSGENDER

A wide-ranging term for people whose gender identity or gender expression differs from the sex they were assigned at birth.

CIS GENDER

Someone whose gender identity matches the sex they were assigned at birth.

NON-BINARY

A person who identifies as neither

¹ Morgan Carpenter (2020) 'The OHCHR background note on human rights violations against intersex people', *Sexual and Reproductive Health Matters*, 28:1, DOI: 10.1080/26410397.2020.1731298

² Morgan Carpenter (2016) 'Body shaming is an intersex issue', *Intersex Human Rights Australia*, <<https://ihra.org.au/30697/body-shaming-intersex-issue/>>

male nor female and sees themselves outside the gender binary. This is sometimes shortened to N.B. or enby.

Other terms for people who express gender outside traditional norms associated with masculinity or femininity are **gender non-conforming (or GNC), genderqueer and gender fluid**.

The basics of variations of physical sex characteristics (commonly called intersex)

Intersex is an umbrella term to for people born with physical sex characteristics that don't fit medical and social norms for female or male bodies. There are a wide range of different underlying intersex traits that can be determined prenatally, at birth, during puberty or at other times. Intersex traits can include androgen insensitivity and other androgen synthesis variations, congenital adrenal hyperplasia, and sex chromosome variations. Intersex people can grow up to be heterosexual or not, and cisgender (identify with sex assigned at birth) or not. Intersex people use many different terms to describe their bodies and characteristics, including terms taught by parents and doctors. Individuals also choose terms to avoid misconceptions and stigma.

The basics of sexuality

Humans have always experienced sexual attraction and practiced sexuality in diverse ways, not necessarily related to gender or to having children. In human history, the concept of sexual identity is a

relatively recent one, linked to the development of medical language for describing human behaviours and qualities. 'Heterosexuality' was less than a century ago understood to be a type of disorder, once described as 'abnormal or perverted appetite towards the opposite sex'. Only in the 1930s was it first used as a term to describe so-called 'normal' sexuality.

The idea that some sexual behaviours are normal, and others are strange, perverted or wrong, has a long history that can be mentally ingrained from a young age, even for many LGBTQ+ people themselves.

However, anyone who is committed to making services inclusive and accessible for LGBTQ+ people will work to unpack and unlearn this prejudice. This can take some time, but it is important to remember that moralising or stigmatising attitudes towards sexuality can for many people be a source of intense shame, depression, anxiety and trauma. Any worker who is able to reflect carefully and regularly on their attitudes towards sexuality and identity will be better equipped to respond to LGBTQ+ clients in vulnerable situations.

Sexual identities

Despite the institutional and medical history of sexual identities given above, sexual identities can also be great sources of pride and safety, helping people to deal with and process experiences of marginalisation, and to bring together communities of people who have been through similar struggles. Words such as 'gay', 'lesbian' or 'bisexual', as with many of the identities discussed in this document, can hold a very special significance for people who identify with them. For others, the specific terms may be unimportant.

However, it is important to be informed and understanding of the meaning of different terms so as not to accidentally misidentify or alienate some clients.

It is critical to understand the difference between sexual identity and gender identity. A person can identify as trans and also as heterosexual: for example, a trans man who is attracted to women. Like gender identities, however, sexual identities are internal. They do not need to be 'proven' by some expected behaviour or relationship status.

Key Terms

BISEXUALITY

The definition of bisexuality has evolved over time to reject the notion that there are only two genders, and the umbrella term 'bi +' is used by some to recognise this.

Bisexual people have differing definitions of bisexuality, but the term usually refers to people who have an attraction to multiple genders, attraction to two or more genders, or attraction to their own gender and other gender/s.

There are stereotypes around bisexuality – that it is a way station from straight to gay, or that it is a transitional stage. These are untrue, offensive and not reflective of everyone's experience within the bisexual community. While some people might identify as bisexual at one stage in their life and eventually the way they identify changes or the label no longer fits, this can be true for any sexuality and is not confined to bisexuality

PANSEXUALITY

Someone who is attracted to people of all gender identities, or someone

who is attracted to a person's qualities regardless of their gender identity.

The prefix 'pan' means 'all', and the term pansexuality was originally used to reject the gender binary that some people felt was associated with 'bisexual'.

ASEXUALITY

Or "ace." Someone who experiences little to no sexual attraction. They are not to be confused with "aromantic people," who experience little or no romantic attraction. Asexual people do not always identify as aromantic; aromantic people do not always identify as asexual.

More generally, some people (asexual or otherwise) identify as having a romantic orientation different than their sexual orientation. The terminology is similar: homoromantic, heteroromantic, biromantic and so on.

QUEER

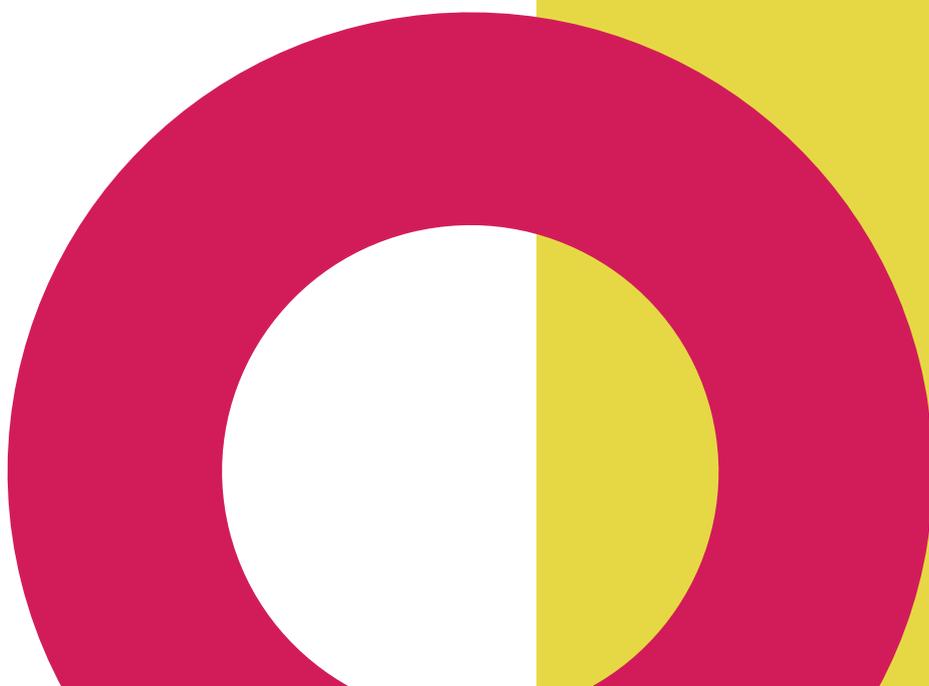
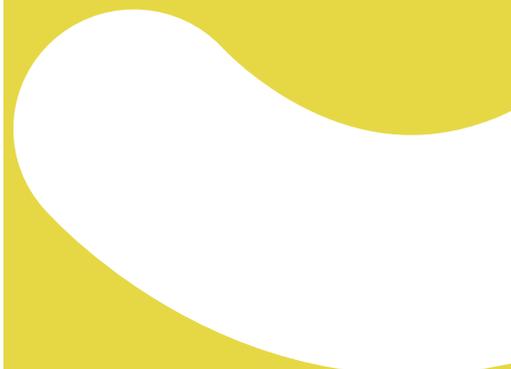
Queer is often used as an umbrella term to refer to individuals who form part of the LGBTIQ+ community. While it was previously used in a derogatory way, the word has been largely reclaimed by the community. Some individuals within the community are uncomfortable with the word because of its history, and so it should only be used to refer to someone's identity if they themselves identify with the word.

Poly relationships

Polyamory, or ethical non-monogamy, is an umbrella term used to refer to a variety of relationship styles, orientations and practices involving romantic or sexual relationships with multiple partners. These relationship styles centre consent and mutual caregiving. Polyamorous people may be legally married to one other person, but also have de facto partners or children with other

partners. Individuals may live alone, or span multiple residences and kinship structures. Polyamory can be an orientation, a philosophical or practical relationship style, and can be an important part of a person's identity.

Some people who identify as being polyamorous can experience stigma and discrimination by police and in our legal system in both explicit and implicit ways. This can include lawyers who demonstrating rigid thinking and unintentional bias when asking questions about a person's relationship status during a legal intake, which may lead a polyamorous person to feel reticent about providing full information about their personal situation, or a failure by the courts to list a secondary partner on an intervention order where they are an affected family member. This could also include police taking a report of a sexual assault less seriously from a person who is in multiple sexual relationships than they might if that person was monogamous. It is against the law in Victoria to discriminate against a person on the grounds of their lawful sexual activity.



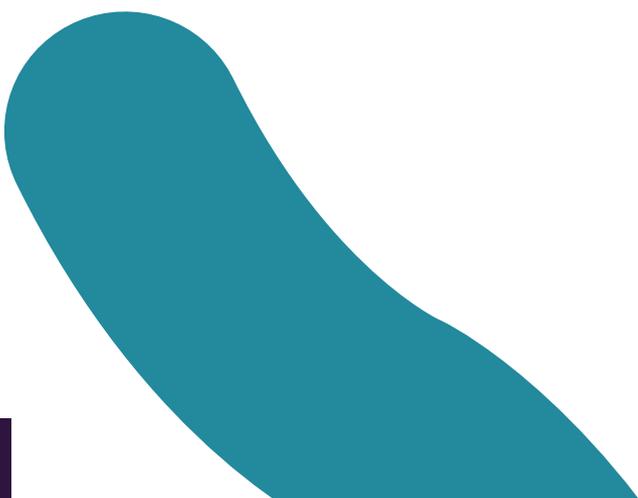
Being an inclusive service provider

When organisations talk about being inclusive, they often mean a range of different things. The following is a list of issues that we recommend that every organisation consider when self-auditing their services as to whether or not they are currently LGBTIQ+ inclusive.

We would strongly encourage every organisation to self-audit their services using the Federation of Community Legal Centres' **Organisational Audit Tool** at Appendix 1. The development of this checklist was based on the initial work of Rainbow Health Victoria, then further developed by the Federation of Community Legal Centres to align with the broader needs of the community legal sector and the National Accreditation Scheme (NAS).

Furthermore, the NSW-based psychotherapist and educator Dragan Zan Wright has created an individual reflective practice sheet for individual staff to complete to self-identify their strengths and gaps in their own knowledge. We recommend that CLC's consider inviting trainers such as Dragan to help groups undertake this reflective practice process in a structured way.

The following is a list of issues to consider:



Communication

Respectful communication includes (but is not limited to) choice of language, intake and screening procedures, using client-preferred name and pronouns, recognising non-binary gender, responses to disclosure, and recording of information.

For example: not making assumptions about a client's sexuality based on pre conceived ideas of what certain members of the LGBTIQ community look like or act; appropriate language and means of asking about blood borne illness status etc. etc.

Important things to remember to ensure that your service is inclusive of the trans and gender diverse (TGD) community:

- There are a range of genders and pronouns in the TGD community
- Clients should not feel pressured to disclose their TGD status
- Do not assume that someone identifies as TGD based on their appearance – for example, your office may choose to implement a policy where every client is asked 'how do you identify your gender?'
- Ask the client how they describe their gender and what pronoun/s they use
- If it is necessary to ask what gender a person was assigned at birth, it should also be explained why this information is required
- Assure the client that all information will be kept confidential unless the client permits otherwise
- Always address a client using the gender/s and name they identify with – regardless of whether they have changed these legally or had surgery

- Not using a person's gender pronoun can be an example of discrimination
- It is also important to use gender neutral greetings and recognise diverse voices when on the phone
- Note that a trans or gender diverse client could identify with any sexual orientation, and a person may additionally have been born with an intersex variation, so intake forms should be inclusive of this.
 - + Does your organisation currently use gendered language such as "Sir" and "Madam" at reception, instead of a gender neutral phrase such as "Hello, how can I help you today?"
 - + Does your organisation assume the gender of a person on the telephone based on their voice and enter that information into your intake forms?
 - + Do your staff and volunteers feel confident in politely and discreetly asking about a person's preferred name and pronoun where they are unsure?
 - + Does your organisation participate in gossip, jokes or flippant remarks about people's sexual orientation or gender expression which may offend clients, volunteers or staff?

Use of interpreters

Many CLC's will already use translating and interpreting services when communicating with clients. It's important to bear in mind that many terms that the LGBTIQ+ community use in Australia such as non-binary or transgender do not have direct

corresponding words in other languages (and if they do, in some cases they may be stigmatising), so you should endeavour to break down your terminology to give the interpreter the best chance of communicating this information to your client effectively.

- + Does your organisation offer translating and interpreting services and factsheets in relevant community languages for clients for whom English is not a first language?
- + Does your organisation promote that AUSLAN interpreting services can be made available to clients who need it?

Toilets

As a trans or gender diverse person, the basic human need of using a toilet can very often become overwhelming, frustrating or even dangerous because the vast majority of toilets are marked as, and architecturally designed to be, spaces segregated by binary categories of gender (i.e. male and female toilets). This design makes these spaces inherently exclusive of gender diverse people, and the choice to use the toilet can, for many trans people, feel so uncomfortable or risky that some will regularly choose frustrating or painful alternatives to using these toilets – walking long distances or waiting uncomfortable lengths of time. Being forced to decide between male or female toilets can also trigger memories of traumatic experiences for trans or gender diverse people, putting a significant psychological burden on us that can in the long term reduce our quality of life.

Organisations that are committed to making an inclusive practice will take this issue very seriously, and fortunately it is one that can be

addressed in a very simple way – by providing toilets that are marked as being accessible to people of all genders. If none are provided, this is achieved by replacing the ‘male’ and ‘female’ signs with ones that do not specify a gender ‘allowed’ to use that facility. Signs can be an opportunity to remind cisgender people that common assumptions about the gender of people who use certain facilities are exclusive and unnecessary.

Other signage around facilities can be exclusive on the basis of gender. For example, a room for breastfeeding parents or carers might be marked as ‘mothers’ room’, despite the fact that not all people who breastfeed for children are mothers.

Some questions for your organisation regarding the inclusivity of your facilities might be:

- + Does your organisation have at least one gender neutral accessible toilet for clients to use, which is accessible without specifically asking for access to it?
- + Does your organisation display trans and gender diverse inclusion signs in your toilets?
- + Does your organisation use non-gendered toilet signs that describe the functional aspects of the facility (e.g. toilet with cubicles and urinal, toilet with cubicles and sanitary bins)
- + Does your organisation offer a place for people caring for small children to change them and if so, is the signage gender neutral and welcoming of people caring for children who may not be officially listed as parents?

Trauma-informed practice

Complex trauma occurs when repeated traumatic events occur against a child or adult, in a range of situations including family violence, neglect, sexual exploitation and community rejection. Many LGBTQ+ people experience complex trauma, compounded by discrimination and minority stress.

Minority stress is the cumulative impact of being a minority within a dominant cultural group, which may result in needing to hide aspects of a person’s identity in different settings, being isolated in educational and social settings, and the experience of outright stigma and discrimination. Complex trauma is not only experienced by the LGBTQ+ community, and can be experienced by anybody who is “othered” by the dominant culture, including racial, religious and ethnic minorities group.

It is therefore crucial that CLC workers develop competency in assisting clients who have experienced complex trauma. In a CLC setting, this can manifest in an acute lack of trust in legal processes, hypervigilance around privacy, a damaging use of alcohol and drugs, self-harm, being unable to answer the phone or respond to emails, or conversely engaging in constant, habitual contact with CLC staff and other workers.

We recommend that CLC’s consider undertaking training from organisations such as the [Blue Knot Foundation](#) so that CLC staff and volunteers can to develop these competencies.

Understanding the intersectional discrimination that some LGBTQ+ people face

LGBTQ+ people, like anyone else in our community, have a range of different racial, religious and cultural identities. Some members of our community have disabilities or experience stigma due to blood-borne illnesses such as HIV and hepatitis C.

Staff and volunteers should be aware and inclusive of diversity and further marginal identities among LGBTQ+ clients including:

- Cultural, indigenous and faith-based identification
- Disability
- Chronic illness such as HIV
- Sex worker status
- Age (particularly younger or older clients)
- People living in rural and remote communities
- Poverty
- People who have been incarcerated

Where possible, clients who identify with these groups should be provided with specific resources and support. CLC staff and volunteers should undergo a range of anti-discrimination training sessions and be provided with resources to understand the unique vulnerabilities of different client groups.

Acknowledging prior harm from police/judicial systems

The targeting and over-policing of LGBTIQ+ people in Australia cannot be overstated, and despite recent apologies from some state Police forces, there remains significant and widespread mistrust of the Police and judicial systems more broadly with the LGBTIQ+ community. In many cases this mistrust is entirely valid, as many Police Officers and members of the judiciary alike hold onto homophobic, sexist and transphobic attitudes which can negatively impact upon LGBTIQ+ people while interacting with Police while experiencing acute mental health episodes, seeking assistance with family violence-related matters and when interacting with the criminal law systems.

CLC staff and volunteers are encouraged to develop a basic understanding of this history.

For example, in 1972 [Dr George Duncan](#), a gay law lecturer from the University of Adelaide was killed in an attack suspected to have been committed by police officers.

There remain [30 unsolved deaths](#) in Sydney known as the Bondi murders, which police officers are widely considered to have been directly involved in or complicit in by failing to adequately investigate.

The history of the first [Mardi Gras](#) in Australia is one of police violence, where police arrested numerous peaceful protesters, many of whom were subsequently injured in Police custody.

Laws criminalising homosexuality and made punishable by jail were not repealed across Australia until relatively recently. In Victoria, laws

which made homosexuality a crime weren't repealed in Victoria until the 1980's. In Tasmania, homosexuality was not fully decriminalised until 1997. The unequal age of consent for anal intercourse in Queensland was not repealed until 2016.

Due to the history of criminalisation of homosexual acts, many older LGBTIQ+ people in Australia will still have criminal convictions that have not yet been expunged.

The [Tasty Nightclub raid](#) in Melbourne in 1994 is remembered by many contemporary LGBTIQ+ activists in Victoria as a deeply traumatic experience, particularly for transgender patrons and drag queens who were forced to undergo strip searches by Victoria Police under the premise of a drug search.

We recommend that all CLC staff and volunteers learn about this difficult history and in some cases, ongoing poor support for LGBTIQ+ people within the police and Australian judiciary to better understand and respond to the needs of LGBTIQ+ interacting with the criminal justice system and family violence regimes.

Data collection

Due to a lived experience of discrimination, many LGBTIQ+ people are cautious about sharing our personal information, which can be an added barrier when seeking assistance from a CLC which routinely requires detailed personal information to be recorded around relationships and family structure, financial status, employment, as well as information about the client's (and other parties') sex and gender.

As we are required to record this information for the purposes of

conflict checking, report-writing and evaluations, it's important that all CLC staff and volunteers are familiar with the confidentiality measures that operate at every centre, and that everyone knows what information is mandatory as a condition of service, and what isn't.

Importantly, when collecting basic client information, is crucial that CLCs avoid assuming there is only a gender binary such as: • Male • Female

The same goes for the collection of names.

Some people have a name that is not their current legal name. People may change their names for a range of reasons including family rejection, to embrace a part of their cultural heritage and/or in the case of trans and gender diverse people, to choose a name that accords with their gender identity. A person's "real" name is the name they use, and it is deeply offensive and alienating to insist upon using a client's current legal name in your everyday interactions. Where a prior legal name is required to be used as a part of a formal court process, CLC staff and volunteers should ensure that this is managed sensitively, and where possible, support is offered to align their legal documentation with the name that they now use.

Data about people's gender identities should only ever be collected because it serves a purpose. There are times when it is valid to collect this kind of information from people in order to ensure that services are delivered appropriately, as well as to establish whether they are reaching the right members of a community. It should not be collected simply for the sake of it. CLCs should carefully consider what data they collect, and bear

in mind that where they collect information about people's sexual orientation, blood borne illness status or gender identity, this information should be maintained with the strictest confidentiality, and not shared with other services unless the client specifically instructs you to.

The following is the data collection that has been informed by Intersex Human Rights Australia (<https://ihra.org.au/forms>) recommended to Community Legal Centres Australia (CLCA) by the CLCA LGBTIQ+ Network.

WHICH SEX WERE YOU ASSIGNED AT BIRTH?

- Male
- Female
- Prefer not to answer

WHAT IS YOUR CURRENT GENDER IDENTITY (PLEASE CHOOSE AS MANY AS APPLY):

- Female
- Male
- Sistergirl
- Brotherboy
- Non – binary
- Gender diverse
- Unlisted culturally specific identity (please state)
- Unlisted (please state)
- Prefer not to answer
- Unknown

ARE YOU A MEMBER OF THE LGBTIQ+ COMMUNITY?

- No
- Yes
- Prefer not to say
- If yes, then...

WHAT ARE YOUR PRONOUNNS (PLEASE CHOOSE AS MANY AS APPLY):

- She
- He
- They
- Unlisted (please state)

SEXUAL ORIENTATION

DO YOU CONSIDER YOURSELF TO BE (PLEASE CHOOSE AS MANY AS APPLY):

- Heterosexual
- Lesbian
- Gay
- Bisexual
- Queer
- Unlisted (please state)
- Prefer not to say
- Unknown

INTERSEX STATUS

WERE YOU BORN WITH A VARIATION OF SEX CHARACTERISTICS (THIS IS SOMETIMES CALLED INTERSEX)?

- Yes
- No
- Prefer not to answer
- Not sure

Organisational set-up

Most CLC's will be made up of a governing Board, leadership team including a principal solicitor and executive officer, and a range of other senior staff depending on the size of the centre. It's important that the LGBTIQ+ community (and all other minority communities) are adequately represented in all layers of organisational management, so that your CLC has the awareness and competency to adequately understand the unique issues of different communities and respond appropriately. To this end, we recommend that all CLCs consider the following:

- + Does your leadership team and/or Board include people with expertise in LGBTIQ+ issues?
- + Does your CLC have an LGBTIQ+ expert advisory group, or an awareness of LGBTIQ+ organisational networks who can be called upon for (paid) consultation?
- + Does your CLC actively encourage consultation and inclusion of populations that are marginalised within the LGBTIQ+ acronym?
- + Has your organisation undergone rainbow tick accreditation (or similar)?
- + Have all of your staff and volunteers undergone LGBTIQ+ inclusive practice training, and if so, does your centre regularly run refresher training?

Celebrating key LGBTQ+ days at your workplace

An important way of deepening your centre's understanding of LGBTQ+ issues and to show active support for our communities is to celebrate key dates in the LGBTQ+ calendar.

The following is a non-exhaustive list of key dates celebrated in Australia:

[Trans Day of Visibility](#) (March 31)

[International Day against Homophobia, Biphobia, Intersexism and Transphobia](#) (May 17)

[International Lesbian Day](#) (October 8)

[Wear it Purple Day](#) (August 30)

[Celebrate Bisexuality Day](#) (September 23)

[Intersex Awareness Day](#) (October 26)

[Intersex Day of Solidarity](#) (November 8)

[Trans Day of Remembrance](#) (November 20)

[World Aids Day](#) (December 1)

Posters and merchandise

All states and territories have organisations that sell posters, lanyards, badges and flags to show support for the LGBTQ+ community, which is a great way to show that your organisation is inclusive (once it has undertaken many of the steps recommended in this guide).

The following is a list of some of the many organisations that create positive representations of people of diverse sexualities and gender identities for organisations to display:

[Minus 18](#)

[Hares and Hyenas Flags](#)

[Transgender Victoria Lanyards](#)

[Twenty10](#)

Accessibility Information for Events

Thank you to [Undercurrent Victoria](#) for providing the following summary:

Many members of the LGBTQ+ community have different accessibility needs, and we recommend that this be carefully considered when organising events. Important information to tell potential attendees about includes:

- Public transport options (how far is the stop from the venue?)
- What parking options are available? Is there a disability parking spot nearby?
- Is there a footpath/incline/uneven cobblestone on the way to the venue? If so, please specify
- Can people bring their own food to the event?
- Are there childcare options for the event and is there a cost?
- How long will the event run for, what is the running order and will there be breaks?
- Is there a No One Turned Away for Lack of Funds policy for the event?
- Will there be free entry for Aboriginal and Torres Strait Islander people or people from refugees and asylum seekers, and if so, how do people contact you about this?
- Will there be a livestream for people who cannot attend? If so, how do they participate in questions?
- What are the physical dimensions of entry to the venue, will there be an elevator, is EFTPOS available?
- Is this a high stimulation event? What

is the lighting situation?

- Will the event be Auslan interpreted?
- Will there be peer support workers at your event?
- Will any videos played at the event be captioned?
- Will there be power points for people to charge mobility or communication devices?
- Will there be gender neutral, accessible toilets provided?
- Will there be a chill out space at the venue?
- Will there be allocated seating for people who need it?

Being an inclusive employer

Minimum legal requirements

Every CLC should be aware of their minimum legal obligations to their employees, Board members and volunteers under the federal Sex Discrimination Act and relevant state or territory-based anti-discrimination legislation.

The following is a list of list of legal rights that all employees have under Commonwealth law:

FAIR WORK ACT 2009 (COMMONWEALTH)

A right to be free from discrimination at work, and protections against terminations on the grounds of a protected attribute such as sexual orientation or disability.

SEX DISCRIMINATION ACT 1984 (COMMONWEALTH)

A right to be free of discrimination on the grounds of sexual orientation, gender identity (including non-binary gender identity), intersex status and a right to not experience sexual harassment or victimization.

NATIONAL EMPLOYMENT STANDARDS (COMMONWEALTH)

Rights to request flexible work arrangements

Rights to unpaid personal carer's leave/compassionate leave

Rights to unpaid parental leave

CLCs should also carefully consider their relevant state-based Occupational Health and Safety Acts which may also include a right to

a safe workplace (including free of discrimination, bullying and gendered violence, as well as their state-based anti-discrimination legislation, which may convey additional rights and responsibilities.

How should I use pronouns?¹

Pronouns are one way people refer to each other and themselves. Most but not all men (including trans men) use the pronoun 'he'. Likewise, most but not all women (including trans women) use the pronoun 'she'. Some people use a gender-neutral pronoun such as 'they/them'.

If you're unsure what someone's pronoun is, you can ask them respectfully, and preferably privately. Use a question like "Can I ask what pronoun you use?". Do not ask "What pronoun do you prefer?". A person's pronoun and identity are not a preference.

Some people's pronouns may be context-specific. For example, someone might not use their pronoun in a particular environment or around particular people because they do not feel safe or comfortable to do so.

WHAT IF I MAKE A MISTAKE?

People may worry that they will offend or be embarrassed if they use the wrong term, name or pronoun, particularly for trans and gender diverse people.

It's important to try to use respectful language and some mistakes are understandable, particularly when

you are learning. No one will get the language right 100 per cent of the time for 100 per cent of people. If you make a mistake, apologise promptly, use the correct pronoun or name and move on. Don't dwell on it, and don't give up.

But keep trying to get it right because we're committed to maintaining a safe workplace where everyone feels welcomed and respected and where everyone is free from all forms of discrimination and bullying.

Pronoun Cueing

Pronoun cueing is a useful strategy for gently affirming someone's gender and supporting others to do the same. Pronoun cueing is the deliberate use of words to send a 'cue' to others about someone's gender and pronouns. This strategy can be used as a way to politely remind a person when they have misgendered someone else.

For instance: "Your appointment is here, she is waiting near the front desk."

If you are unsure of a person's pronoun you can avoid using a pronoun or use they/them.

For example: "Your appointment is here, they are waiting near the front desk."

Or

"Your appointment is here."

¹ Reproduced with thanks from the Human Rights Law Centre

Inclusive practice in meetings

Increasingly, many organisations will undertake a name-around at the beginning of meetings which will include each person's pronoun by way of introduction. This is an excellent way of demonstrating to your staff and stakeholders that you are an inclusive service with a basic understanding of gender identity, and may help trans and gender diverse staff and volunteers to feel supported in the workplace.

For example:

"My name is Ali and I use he/him pronouns"

"My name is Evelyn and I use she/her pronouns"

"My name is Darcy and I use they/them pronouns"

It's also important to make everyone aware when you are holding a meeting where the toilets are, including gender neutral and accessible toilets. It is strongly encouraged that CLCs do not book meetings or events at venues that do not have gender neutral toilets.

Inclusive practice online

Displaying your pronoun in your email signature, work twitter handle and business card can help people you haven't met before know which pronouns you use, and has the added benefit of demonstrating basic awareness of gender identity.

For example, your email signature might look like:

Sally Sometimes
Community Legal Education Lawyer
She/her

Or

Abel Shaw
Administrative Assistant
They/them

Staff transitioning in the workplace

The decision to transition in the workplace is likely to have come after a period of significant personal uncertainty, and it's crucial that CLCs do everything they can to support staff and volunteers who choose to transition.

Victoria Trades Hall Council have developed a template transition leave clause and transition plan, which we recommend that every CLC in Australia adopt, or use as a basis for developing their own in consultation with LGBTIQ+ staff and organisations (see appendix 3).

In addition to this resource, we recommend that CLCs consider the following do's and don'ts:

DON'T

Ask invasive personal questions such as desire or plans for surgeries, hormone replacement therapy, likely impact on fertility or about what transition means for their or their partner's sexual orientation, or what this means for a person's parenting arrangements. These are deeply personal questions that most cis-gendered people would be offended by in a workplace setting, and trans and gender diverse people will generally be similarly offended by such questions.

DO

Listen and respect the labels people use. LGBTIQ+ people have a right to describe themselves in a way that suits them best.

For example, some people will use different terms to describe their gender identity such as "trans masc", "non-binary" or "genderfluid". These terms may change over time. If you need to know how your colleague identifies (perhaps if you are introducing them in advance) just check in with them briefly in private to ensure that you have the right information.

DO

Ensure that your parental leave, adoption leave and surrogacy leave policies do not use only gendered language such as "the mother" and "the father" as people with different gender identities (including lesbian and gay couples) access parental leave.

DO

Update an employee's name and title and sex marker on their employment records quickly, confidentially and without fuss in consultation with the employee.

DO

Ensure that your staff member has a safe bathroom and change-room facilities that they feel comfortable using.

DO

Provide your staff members with adequate transition leave to address their medical health, allied health and psychological needs, as well as time off to update relevant documentation.



Training and mentorship opportunities for LGBTIQ+ staff and volunteers

Due to structural discrimination, and for some, the additional burden of parental and community rejection, it can be much more difficult for LGBTIQ+ staff and volunteers to find and retain work in the profession of their choice.

We recommend that CLC's consider internship opportunities and targeted volunteering opportunities for LGBTIQ+ students and communities. This could be by having a presence at Pride events at universities and TAFEs, or by attending important LGBTIQ+ community events with information about your volunteer programs.

For example, there is the Australia-wide program "[Out for Australia](#)" which can pair LGBTIQ+ identifying students with mentors.

There's also The [Pinnacle Foundation](#) which provides educational and vocational support to young adults across Australia where their gender identity, sexual orientation or sexual characteristics have prevented or hindered achievement of their career aspirations or personal development.

We further recommend that CLCA and state-based peak bodies consider developing their own mentoring schemes for LGBTIQ+ staff and volunteers.

Encouraging LGBTIQ+ people to work for your organisation

Unless your organisation explicitly states that it is an LGBTIQ+ inclusive employer, many excellent candidates will simply assume that your organisation is not LGBTIQ+ friendly, and it will not be a safe and inclusive workplace for them.

We recommend that CLC's add the following or similar statement into their employment advertisements:

Our Organisation is an equal opportunity employer.

Members of the LGBTIQ+ community, people living with HIV, first nations people and those with past lived experience of recovery from alcohol and other drug issues are encouraged to apply.

Please bear in mind, however, that you should only do this once your organisation has undertaken the Organisational LGBTIQ+ and Gender Diversity Audit for Community Legal Centres (Appendix 1) and amended any policies and practices accordingly.

Pride Networks

Many large and medium-sized organisations now offer Pride Networks to support LGBTIQ+ staff. Many larger law firms have also joined employer organisations such as [Pride in Diversity](#) to support cultural change within workplaces and to support the development of Pride Networks.

We acknowledge that many CLC's may be too small to support their own Pride Network, and we therefore recommend that state-based CLC peak bodies consider creating state and territory-based Pride Networks in order for LGBTIQ+ staff and volunteers to connect, provide each other with support and engage in advocacy projects together.

LGBTIQ+ Inclusive Practice Training

There are many excellent organisations and individuals across Australia that offer LGBTIQ+ and trans and gender diverse (TGD) inclusive practice training for organisations. Where possible, we recommend engaging a provider who offers training with trainers who have lived experience of the issue that they will be discussing. We recommend contacting the [National LGBTI Health Alliance](#) who maintain a national list of training providers.

Intersex specific training

[Intersex Human Rights Australia](#) and [Intersex Peer Support Australia](#) both provide intersex specific training, and it is recommended that CLC's contact these organisations directly for training in this area.

APPENDIX 1 – Organisational Audit Tool

This organisational audit tool is to assist Community Legal Centre’s to determine how well their current systems and practices are reflecting gender diversity and to assist the organisation to review ways that accessibility of LGBTIQ+ clients, staff and volunteers can be improved.

CLIENTS FEEL SAFE AND WELCOMED

Incorporating Phase 3 NAS Standards 3 and 15, our organisation communicates to LGBTIQ+ that they are engaging with a welcoming and safe environment.

INDICATOR	MET	PARTIALLY MET	NOT MET	COMMENTS/ACTION
Our organisation welcomes LGBTIQ+ clients through a variety of strategies appropriate to its environment and scope of service delivery.				
Our organisation openly displays pamphlets, posters or electronic images which include positive images of people of diverse sexualities, sex characteristics and gender identities.				
Our organisation openly displays an anti-discrimination policy in hard copy or on its website with a positive statement of equality such as “We are an inclusive service and do not discriminate regardless of age, race, cultural background, religion, sexual orientation, sex characteristics, gender identity, or disability.”				
Our staff consistently demonstrate an understanding of gender and sexual diversity by using inclusive language which recognises diverse relationships, sex characteristics, sexuality and gender identities.				
Our organisation has appropriate policies and procedures on how to respond to bullying, abuse or inappropriate behaviour, including derogatory comments about someone’s body, sexuality or gender identity.				
Our organisation’s building (where relevant) provides toilets that are not separated by gender, or are marked as all-gender toilets.				

ORGANISATIONAL INTAKE, COMMUNICATION AND EVALUATION PRACTICES

Incorporating **Phase 3 NAS Standards 2, 8, 9, 13, 14, 15 and 17**, during the intake process and through ongoing communication and service delivery, an **LGBTIQ+** individual can feel comfortable about their disclosure in our organisation, and staff are responsive to their individual needs. Accessibility strategies are continually evaluated, monitored and developed.

INDICATOR	MET	PARTIALLY MET	NOT MET	COMMENTS/ACTION
<p>Our intake forms have been developed such that they are inclusive to people of all genders and (only where relevant) all sexual identities, sex characteristics, or relationship arrangements, through paid LGBTIQ+ consultation (for complex forms) or extensive and careful research. Unnecessary questions are omitted from intake forms.</p>				
<p>Clients are informed about Privacy and Confidentiality policies.</p>				
<p>Our organisation champions a culture of consciousness about the use of pronouns such as she/her, they/them, he/him, etc during introductions, at events or within email footers.</p>				
<p>Our organisation's CLE materials include LGBTIQ+ inclusive language and images where relevant.</p>				
<p>Our organisation consults regularly with LGBTIQ+ individuals and organisations to undertake service improvements.</p>				
<p>Our organisation, where relevant, attempts and evaluates diverse strategies of outreach and communication in promoting its services to the LGBTIQ+ community.</p>				
<p>Our organisation invites feedback from clients to ensure that there is continuous LGBTIQ+ and Gender diversity quality improvement planning.</p>				
<p>Our organisation regularly evaluates the impact of our service to ensure best practice and improvements to our reach and service delivery. Our accessibility strategies are continually developed.</p>				

STAFF DEVELOPMENT AND WORKFORCE PLANNING

Incorporating **Phase 3 NAS Standard 1 and 3**, staff, volunteers and Board members understand their responsibilities to LGBTIQ+ clients and are given the opportunity to participate in training and development. The workplace considers ways to embed LGBTIQ+ inclusive practice in an ongoing way.

INDICATOR	MET	PARTIALLY MET	NOT MET	COMMENTS/ACTION
Our organisation ensures that statements of purpose, aims, values and philosophies reflect inclusion of LGBTIQ+ and gender diverse identities.				
Recruitment and selection processes are inclusive of LGBTIQ+ staff and volunteers and may include the phrase "We are an inclusive employer and do not discriminate on the basis of age, race, ethnicity, religion, sexual orientation, sex characteristics, gender, or disability."				
Our organisation's employment policies are developed and regularly updated through paid consultation with any staff that identify as LGBTIQ+ (if they choose to participate) and/or through external consultation.				
Our organisation facilitates LGBTIQ+ inclusion amongst staff, volunteers and Board members, and considers this through onboarding and possible partnerships with other agencies.				
Our organisation keeps informed of LGBTIQ+ and gender diversity practices and utilises this information to improve our services.				
Our organisation provides LGBTIQ+ and gender diversity training to all Board members, staff and volunteers.				
Our organisation ensures the workplace is free of discrimination and harassment, actively supports equal opportunity and promotes a culture of understanding and inclusion.				
Our organisations provides access to reasonable adjustments for staff and volunteers who require it in accordance with the Equal Opportunity Act and Disability Discrimination Act.				

ORGANISATIONAL RISK MANAGEMENT

Incorporating **Phase 3 NAS Standard 5**, the organisation manages risk to ensure the safety of LGBTIQ+ clients, staff, volunteers and Board Members

INDICATOR	MET	PARTIALLY MET	NOT MET	COMMENTS/ACTION
Our organisation includes risks to LGBTIQ+ individuals within its risk management framework, that will enable the identification of potential risks and risk mitigation strategies.				
Our organisation has clear grievance processes that identify and respond to breaches of organisational policies.				
Client complaints process is publically available and includes external phone numbers to report a complaint or breach of a policy.				



APPENDIX 2 – Template Policies

GENDER IDENTITY POLICY

[NAME OF ORGANISATION]

[Insert either the overview of the policy or use this space to align the policy to reflect the organisation’s individual strategic objective, mission or values]

Please note: It is recommended that all employment contracts or enterprise agreements include a clause to incorporate policies and procedures so that each policy is fully enforceable in the workplace. An example of such a clause is, “These policies and procedures [insert names of policies] are incorporated into the employment contract/enterprise agreement and impose legal obligations on all parties.”

We recommend that Community Legal Centres consult with their relevant trade union to seek advice on how best to incorporate these policies into their enterprise agreement or individual employment contracts.

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DOCUMENT NAME GENDER IDENTITY POLICY		VERSION [INSERT CURRENT NUMBER]	
Document Drafter	[INSERT WHO REVIEWS THE POLICY]	Approval date	[INSERT LATEST]
Document Approver	[INSERT WHO APPROVES THE POLICY/BOARD]	Scheduled review date	[INSERT NEXT]

1. OVERVIEW

[NAME OF ORGANISATION] is committed to providing a safe, supportive and respectful environment for staff, customers, clients and members of the public regardless of their gender identity. This policy has been written in reference to the [Equal Opportunity Act 2010](#). [NAME OF ORGANISATION] is committed to providing an inclusive environment for all staff. [NAME OF ORGANISATION] values diversity among its staff and will not tolerate discrimination against employees based on their gender identity.

[NAME OF ORGANISATION] has an obligation to take reasonable and proportionate measures to eliminate gender discrimination in the workplace and support staff and volunteers who choose to transition.

The [NAME OF ORGANISATION] is also committed to respecting, promoting, supporting and implementing human rights set out in the [Charter of Human Rights and Responsibilities 2006](#) (Vic) and implementing the [NAME OF ORGANISATION] Values.

This policy is to be read in conjunction with the LGBTIQ+ Inclusive Practice Toolkit for Community Legal Centres.

2. TARGET AUDIENCE

This policy applies to all [NAME OF ORGANISATION] employees, volunteers, students and Board members. The Policy also extends to all of the [NAME OF ORGANISATION] workplaces, including any location that employees may be considered to be carrying out duties in the course of their employment, such as court or locations of integrated practice with other services. This Policy applies when engaging with other employees, volunteers, students, clients or members of the public encountered in the course of working duties.

This policy applies to how [NAME OF ORGANISATION] provides services to clients and how it interacts with other members of the public. Staff treatment of other staff, of clients, visitors and other members of the public encountered in the course of their [NAME OF ORGANISATION] duties.

This policy relates to all aspects of employment, recruitment and selection, conditions, training, hours, leave arrangements, workload, equipment and transport. This policy may include but is not limited to conduct that occurs on-site, off-site or after hours work, work-related social functions, conferences and wherever staff may be as a result of their [NAME OF ORGANISATION] duties. This policy also extends to social media platforms and electronic mediums.

3. PRINCIPLES

The guiding principles of this Policy are to:

- provide a safe working environment which is free from gender discrimination;
- support diversity and inclusive work practices;
- promote respect amongst all people in the workplace;
- encourage fair and equitable treatment of all people in the workplace;
- ensure employees have reparation against gender discrimination in the workplace;
- inform employees they may be personally liable if allegations of gender discrimination are substantiated against them.

4. DEFINITIONS

SEX	Refers to the label (typically male or female) recorded on a person's birth certificate or other identity documents, such as a change of sex certificate.
TRANSGENDER	A wide-ranging term for people whose gender identity or gender expression differs from the sex they were assigned at birth.
TRANSITIONING	Refers to the process where a transgender person commences living as a member of another sex. This is sometimes referred to as the person 'affirming' their gender because transitioning means the person starts living in what they identify as their true gender. This may occur through medical intervention, style of dressing, or anything else that indicates an intention to commence living permanently as a member of another sex. Individuals may transition in different ways. For example, not all will choose to have sex affirmation surgery for a range of reasons including the availability, cost and desire for surgery.
CIS GENDER	Someone whose gender identity matches the sex they were assigned at birth.
NON BINARY	A person who identifies as neither male nor female and sees themselves outside the gender binary. This is sometimes shortened to N.B or enby. Other terms for people who express gender outside traditional norms associated with masculinity or femininity are gender non-conforming (or GNC), gender queer and gender fluid.
INTERSEX	A term to describe people who are born with physical sex characteristics that don't fit medical and social norms for female or male bodies. Intersex people can be heterosexual or not, and cisgender (identify with sex assigned at birth) or not.
ENDOSEX	A word meaning non-intersex.
BISEXUALITY	The definition of bisexuality has evolved over time to reject the notion that there are only two genders, and the umbrella term 'bi+' is used by some to recognise this. Bisexual people have differing definitions of bisexuality, but the term usually refers to people who have an attraction to multiple genders, attraction to two or more genders, or attraction to their own gender and other gender/s.
PANSEXUALITY	Someone who is attracted to people of all gender identities, or someone who is attracted to a person's qualities regardless of their gender identity. The prefix 'pan' means 'all', and the term pansexuality was originally used to reject the gender binary that some people felt was associated with 'bisexual'.
ASEXUALITY	Or 'ace'. Someone who experiences little to no sexual attraction. They are not to be confused with 'aromantic people' who experience little to no romantic attraction. Asexual people do not always identify as aromantic; aromantic people do not always identify as asexual. More generally, some people (asexual or otherwise) identify as having a romantic orientation different that their sexual orientation. The terminology is similar: homoromantic, heteroromantic, biromantic and so on.
QUEER	Queer is often used as an umbrella term to refer to individuals who form part of the LGBTIQ+ community. While it was previously used in a derogatory way, the word has been largely reclaimed by the community. Some individuals within the community are uncomfortable with the word because of its history, and so it should only be used to refer to someone's identity if they themselves identify with the word

5. POLICY

It is against the law to discriminate against someone based on their gender identity. Under the Equal Opportunity Act, gender identity refers to a person of one sex identifying as a member of the other sex by assuming characteristics of the other sex on a genuine basis. This may be through medical intervention, style of dressing or otherwise; or because the person is living, or seeks to live, as a member of the other sex.

It is also against the law to discriminate against a person born with an intersex variation who identifies as a particular gender. Under the Sex Discrimination Act, it is against the law to discriminate against a person born with an intersex variation on the grounds of their intersex status. Under the Victorian Equal Opportunity Act, it is against the law to discriminate against a person on the basis of their physical features.

All staff has the same rights and responsibilities when it comes to discrimination based on gender identity.

All incidents of discrimination – no matter how large or small or who is involved – require employers and managers to respond quickly and appropriately.

A complaint of discrimination can be made **[NAME OF ORGANISATION]**'s **[Insert workplace complaint resolution policy and procedure link to relevant policy and procedure.]** **[NAME OF ORGANISATION]** encourages its employees to report any allegation of gender discrimination

[NAME OF ORGANISATION] is committed to providing safe, inclusive and respectful workplaces, which are free from all types of discrimination. All **[NAME OF ORGANISATION]** staff are required to treat others with dignity, courtesy and respect.

6. EXAMPLES OF DISCRIMINATION BASED ON GENDER IDENTITY

- deliberately using incorrect names or pronouns;
- invasive, inappropriate questioning about a person's physical characteristics or their sex life (this may also constitute sexual harassment);
- any form of harassment or bullying, including ridiculing or ignoring someone because of their gender identity;
- denying someone training and promotion opportunities because of their gender identity;
- Changing the nature of someone's job because of their gender identity.

7. TRANSITIONING EMPLOYEES

[NAME OF ORGANISATION] will develop a formal plan in consultation with transitioning employees if the employee wishes to do so. The content of the plan should be determined through discussions between the employee, the employees' supervisory staff, and any other support people the employee would like to attend.

Transition plans will include information relating to non-personal plans such as name changes, dress, and the use of toilets and other facilities.

[NAME OF ORGANISATION] will also develop a management plan for the whole workplace. The management plan may include relevant information gathered from the process of developing a personalised transition plan for individual employees and include information on:

- supports for all staff members;
- communicating relevant information to other employees;
- protecting privacy and confidentiality for transitioning employees;
- dealing with any questions or concerns from employees.

[you may wish to provide further information on what to include in a management plan based on your consultations to develop this policy]

The aim of a management plan is to ensure transitioning employees are treated with respect and dignity, any concerns from employees are addressed, and the workplace remains free from discrimination, harassment and unfair treatment.

Adequate transition leave will be provided to address the employees medical health, allied health and psychological needs, in addition to time given to update their relevant documentation.

8. PRIVACY AND CONFIDENTIALITY

Employees must respect privacy and confidentiality in relation to transgender employees. **[Insert link to Organisations' Privacy policy/relevant policy and procedure]**

9. USE OF TOILETS AND FACILITIES

Employees are entitled to use toilets and other facilities that are appropriate to their affirmed gender. **[NAME OF ORGANISATION]** provides gender neutral accessible toilets for its employees, volunteers and visitors. Any staff members who have concerns about the use of toilets and facilities should raise these with management.

10. RESPONSIBILITIES OF ALL EMPLOYEES

This section should be read in conjunction to the **[NAME OF ORGANISATION]** Anti-Discrimination Policy **[insert link]**. **[NAME OF ORGANISATION]** recognises its obligations under Occupational Health and Safety Act 2004 and the National Employment Standards, as well as the aforementioned legislation, to provide and maintain a safe working

environment.

It is the responsibility of all employees and Board members to:

- model appropriate behaviour and uphold the values of the organisation;
- not act in a manner that would be considered to be discriminatory pursuant to this policy or any applicable legislation;
- comply with this policy at all times;
- participate fully in any gender discrimination training that may be offered by the organisation;
- where appropriate, suggest ways in which practices, systems and procedures could be improved so as to reduce the likelihood of discrimination occurring;
- cooperate with any complaint procedure in a timely and professional manner.

11. RESOLVING ISSUES AT [NAME OF ORGANISATION]

If an employee believes they are experiencing or witness gender discrimination, the first priority is to seek support for the employee. [NAME OF ORGANISATION] strongly encourages any staff member who believes they have been discriminated against, bullied or harassed, sexually harassed, vilified or victimised to take appropriate action [see Complaint resolution procedure/link to relevant policy and procedure]. Please do not suffer in silence.

Staff members who witness another employee being discriminated against, bullied or harassed, sexually harassed, vilified or victimised should also take appropriate action to report this. [NAME OF ORGANISATION] encourages its employees to report any allegation of discrimination by following the steps outlined in the [insert complaints and grievance policy name].

Staff who do not feel safe or confident to take such action may seek assistance from their supervisor, CEO or appropriate person, [list other contacts] for advice and support or action their behalf.

At any stage, employees have the option to report discrimination to the following organisations and agencies:

- The Police in your State/Territory
- Unions
- Australian Human Rights Commission
- Fair Work Ombudsman

12. SUPPORT AND ASSISTANCE

Support is available to all employees, managers, principal lawyers and supervisors involved in reporting and managing a gender discrimination complaint, including after the matter has been resolved. Supports [NAME OF ORGANISATION] has in place are as follows:

- [LIST WHAT SUPPORTS ARE AVAILABLE AT YOUR ORGANISATION]
- [You may have Equal Opportunity Contact Officers] Contact officers are staff members who have been trained to provide confidential and impartial information and support to help staff make an informed decision about how to try to resolve an issue. Contact officers will not solve the problem for you, but they can be a very useful sounding board for you to reflect on your situation, provide a new perspective and help you make a practical and effective decision that meets your needs.

13. EMPLOYEE ASSISTANCE PROGRAM

[NAME OF ORGANISATION] staff are entitled to a certain amount of free, professional counselling from our Employee Assistance Program (EAP). To access the EAP, contact [provide contact details to access this service.]

EAP counselling is confidential and nothing discussed with a counsellor will be communicated back to [NAME OF ORGANISATION]. EAP counselling is available free to [NAME OF ORGANISATION] staff regardless of whether the issue is related to a workplace problem or another issue for the staff member.

14. FURTHER APPLICATION

[NAME OF ORGANISATION] encourages this Policy to be used by staff and volunteers when working with external stakeholders, clients and contractors.

15. POLICY REVIEW

This policy will be reviewed every two years by the CEO [in collaboration with HR MANAGER IF YOU HAVE ONE/ EXTERNAL CONSULTANTS/OR OTHERWISE]. All [NAME OF ORGANISATION] employees will be provided with an opportunity to have input into the review of the Policy during the consultation period.

The CEO will initially review the organisation’s procedures in all areas to ensure that these are in accordance with the principles expressed in this policy, and will report to the Board on this matter.

The CEO will review any changes to the organisation’s procedures in all areas to ensure that these are in accordance with the principles expressed in this policy.

Staff and volunteers will follow these procedures.

16. LEGISLATION AND RELATED POLICIES

This policy relates to:	
Standards or other external requirements	[insert NAS standards or external requirements that apply]
Legislation or other requirements	Sex Discrimination Act 1984 Charter of Human Rights and Responsibilities Act 2006 Equal Opportunity Act 2010 (Vic) Occupational Health and Safety Act 2004 (Vic) Fair Work Act 2009 (Cth)
Internal Policies [LIST RELEVANT]	Workplace equal opportunity policy Sexual harassment policy Flexible work arrangements policy Occupational health and safety policy Workplace complaint resolution policy and procedure Discipline procedure Mission, vision and values statements Enterprise bargaining agreements [LIST] Service agreement
Contractual obligations	[insert any contractual obligations that apply]

17. POLICY REVIEW

Reviewing and approving this policy		
Frequency	Person responsible	Approval
[How often will this policy be reviewed?]	[Position of person responsible for reviewing policy] [Union responsible for consulting on policy]	[Position of person/group who approves this policy]

Policy review and version tracking			
Review	Date Approved	Signed	Next Review Due
1			
2			
3			



ANTI-DISCRIMINATION POLICY

[NAME OF ORGANISATION]

[Insert either the overview of the policy or use this space to align the policy to reflect the organisation's individual strategic objective, mission or values]

Please note: It is recommended that all employment contracts or enterprise agreements include a clause to incorporate policies and procedures so that each policy is fully enforceable in the workplace. An example of such a clause is, "These policies and procedures [insert names of policies] are incorporated into the employment contract/enterprise agreement and impose legal obligations on all parties."

We recommend that Community Legal Centres consult with their relevant trade union to seek advice on how best to incorporate these policies into their enterprise agreement or individual employment contracts.

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Document Name Anti-Discrimination Policy		Version [INSERT CURRENT NUMBER]	
Document Drafter	[INSERT WHO REVIEWS THE POLICY]	Approval date	[INSERT LATEST]
Document Approver	[INSERT WHO APPROVES THE POLICY/BOARD]	Scheduled review date	[INSERT NEXT]

1. OVERVIEW

This policy sets out the legal responsibilities and obligations of employees and volunteers of **[NAME OF ORGANISATION]** in relation to discrimination within the [Equal Opportunity Act 2010 \(Vic\)](#).

In Victoria, it is unlawful to discriminate on the basis of a number of protected attributes including:

- Race;
- Colour;
- Sex;
- Sexual orientation;
- Age;
- Physical characteristics;
- Physical or mental disability;
- Marital status;
- Family or carer responsibilities;
- Pregnancy;
- Religion;
- Political opinion;
- National extraction or social origin.

[INTERSTATE ORGANISATIONS SHOULD DELETE AND TO INCLUDE THE RELEVANT STATE/TERRITORY-BASED ANTI-DISCRIMINATION LEGISLATION]

In addition, the [Sex Discrimination Act 1984](#) makes it against the law to treat employees unfairly because of:

- sex;
- gender identity;
- intersex status;
- sexual orientation;
- marital or relationship status (including same-sex de facto couples);
- family or carer responsibilities;
- pregnancy or possible pregnancy;
- breastfeeding.

The policy has also been written in reference to Australia's federal anti-discrimination laws, which are contained in the following legislation:

- [Age Discrimination Act 2004](#)
- [Disability Discrimination Act 1992](#)
- [Racial Discrimination Act 1975](#)
- [Sex Discrimination Act 1984](#)
- [Australian Human Rights Commission Act 1986](#)

[INSERT Other Federal and State/Territory laws may also apply to your organisation]

2. TARGET AUDIENCE

This policy applies to all **[NAME OF ORGANISATION]** employees, volunteers, students and Board members. The Policy also extends to all of the **[NAME OF ORGANISATION]** workplaces, including any location that employees may be considered to be carrying out duties in the course of their employment, such as court or locations of integrated practice with other services. This Policy applies when engaging with other employees, volunteers, students, clients or members of the public encountered in the course of working duties.

This policy relates to all aspects of employment, recruitment and selection, conditions, training, hours, leave arrangements, workload, equipment and transport. This policy may include but is not limited to conduct that occurs on-site, off-site or after hours work, work-related social functions, conferences and wherever staff may be as a result of their **[NAME OF ORGANISATION]** duties. This policy also extends to social media platforms and electronic mediums.

[NAME OF ORGANISATION] has an obligation to take reasonable and proportionate measures to eliminate discrimination in the workplace.

3. PRINCIPLES

The guiding principles of this Policy are to:

- provide a safe working environment which is free from discrimination;
- support diversity and inclusive work practices;
- promote respect amongst all people in the workplace;
- encourage fair and equitable treatment of all people in the workplace;
- ensure employees have reparation against discrimination in the workplace;
- inform employees they may be personally liable if allegations of discrimination are substantiated against them.

The **[NAME OF ORGANISATION]** is also committed to respecting, promoting, supporting and implementing human rights set out in the [Charter of Human Rights and Responsibilities 2006 \(Vic\)](#) and implementing the **[NAME OF ORGANISATION]** Values.

4. DEFINITIONS

SEX DISCRIMINATION	<p>DIRECT SEX DISCRIMINATION: When a person is treated less favourably than a person of a different sex would be treated in the same or similar circumstances.</p> <p>INDIRECT SEX DISCRIMINATION: When there is a rule or policy that is the same for everyone but has an unfair effect on people of a particular sex.</p>
GENDER IDENTITY DISCRIMINATION	<p>When a person is treated less favourably because of that person's gender-related identity, appearance or mannerisms or other gender-related characteristics of the person. It does not matter what sex a person was assigned at birth or whether the person has undergone any medical intervention.</p> <p>DIRECT GENDER IDENTITY DISCRIMINATION: When a person is treated less favourably than a person of a different gender identity would be treated in the same or similar circumstances.</p> <p>INDIRECT GENDER IDENTITY DISCRIMINATION: When there is a rule or policy that is the same for everyone but has an unfair effect on people of a particular gender identity.</p>
INTERSEX STATUS DISCRIMINATION	<p>When a person is treated less favourably because of that person's intersex characteristics.</p> <p>DIRECT INTERSEX DISCRIMINATION: When a person is treated less favourably than an endosex (non-intersex) person would be treated in the same or similar circumstances.</p> <p>INDIRECT INTERSEX DISCRIMINATION: When there is a rule or policy that is the same for everyone but has an unfair effect on people with innate variations in sex characteristics.</p>

SEXUAL ORIENTATION DISCRIMINATION	<p>When a person is treated less favourably because that person has a sexual orientation towards:</p> <ul style="list-style-type: none"> • persons of the same sex; or • persons of a different sex; or • persons of the same sex and persons of a different sex. <p>DIRECT SEXUAL ORIENTATION DISCRIMINATION: When a person is treated less favourably than a person with a different sexual orientation would be treated in the same or similar circumstances.</p> <p>INDIRECT SEXUAL ORIENTATION DISCRIMINATION: When there is a requirement or practice that is the same for everyone but has an unfair effect on people of a particular sexual orientation.</p>
DISCRIMINATION ON THE GROUND OF MARITAL OR RELATIONSHIP STATUS	<p>Discrimination on the ground of marital or relationship status happens when a person is treated less favourably because the person is:</p> <ul style="list-style-type: none"> • single; • married; • married, but living separately and apart from the spouse; • divorced; • the de facto partner of another person; • the de facto partner of another person, but living separately and apart from that other person; • the former de facto partner of another person; • the surviving spouse or de facto partner of a person who has died. <p>DIRECT DISCRIMINATION ON THE GROUND OF MARITAL OR RELATIONSHIP STATUS: When a person is treated less favourably than a person with a different marital or relationship status would be treated in the same or similar circumstances.</p> <p>INDIRECT DISCRIMINATION ON THE GROUND OF MARITAL OR RELATIONSHIP STATUS: When there is a requirement or practice that is the same for everyone but has an unfair effect on people of a particular marital or relationship status.</p>
PREGNANCY DISCRIMINATION	<p>DIRECT PREGNANCY DISCRIMINATION: When a person is treated less favourably than another person because they are pregnant or because they may become pregnant.</p> <p>INDIRECT PREGNANCY DISCRIMINATION: When there is a requirement or practice that is the same for everyone but has an unfair effect on pregnant people.</p>
BREASTFEEDING DISCRIMINATION	<p>DIRECT BREASTFEEDING DISCRIMINATION: When a person is treated less favourably because they are breastfeeding or need to breastfeed over a period of time.</p> <p>INDIRECT BREASTFEEDING DISCRIMINATION: When there is a requirement or practice that is the same for everyone but disadvantages people who are breastfeeding.</p>

5. POLICY

Discrimination in our workplaces is an unacceptable form of behaviour which will not be tolerated under any circumstances. [NAME OF ORGANISATION] is committed to providing safe, inclusive and respectful workplaces, which are free from all types of discrimination. All [NAME OF ORGANISATION] staff are required to treat others with dignity, courtesy and respect.

If an employee believes they are experiencing or have witnessed discrimination, the first priority is to seek support for the employee. [NAME OF ORGANISATION] strongly encourages any employee who feels they have been a victim of discrimination to take immediate action. However, given the seriousness of discrimination, it is recommended that this discussion happens in consultation with the relevant manager or CEO.

[NAME OF ORGANISATION] encourages its employees to report any allegation of discrimination by following the steps outlined in the [insert complaints and grievance policy name].

6. RESPONSIBILITY FOR PREVENTING AND RESPONDING TO DISCRIMINATION

6.1 RESPONSIBILITIES OF THE CEO AND BOARD OF [NAME OF ORGANISATION]

[NAME OF ORGANISATION] recognises its obligations under Occupational Health and Safety Act 2004 to provide and maintain a safe working environment. [NAME OF ORGANISATION] is committed to:

- regularly review the leadership and commitment given to eliminating discrimination through active promotion of the organisation's Anti-Discrimination Policy;
- monitor performance by way of periodic management reports and assurances;
- ensuring that there are clear processes in place for raising grievances and complaints;
- clearly communicating and promoting these processes amongst staff;
- monitoring the implementation of this Policy;
- identifying potential risk factors and taking prompt, reasonable action to minimise those risks including:
 - + managing organisational change in an inclusive and participatory way (e.g. consult with employees affected as early as possible and develop and maintain effective communication throughout the process);
 - + implementing work structures to prevent the risk of sex discrimination and sexual harassment, and continually review and evaluate the systems in place (e.g. seeking feedback from employees through discussions and surveys);
 - + promoting positive working relationships within the [NAME OF ORGANISATION] workspaces.
- ensuring the accessible provision of information and training as necessary to support the effective implementation of this Policy;
- reviewing the Policy every two years or earlier as required and communicating any changes or updates to the Policy across the organisation.

6.2 RESPONSIBILITIES OF CEOS, MANAGERS AND PRINCIPAL LAWYERS

It is the responsibility of the above roles to ensure that:

- the organisation's practices and processes incorporate precautions against discrimination in such areas as hiring, succession, and program delivery;
- accommodations are made to allow diverse groups to access the organisation;
- where appropriate, priority is given to individuals from disadvantaged groups;
- oversee the performance of subordinate staff in these matters.
- review and report to the Board, as appropriate, on the effectiveness of the management systems established to remove discrimination;
- analyse material breaches and identified compliance system weaknesses for systematic trends and ensure that any adverse trends are addressed;
- promote a culture of effective policy compliance across the organisation;

- promote and model the **[NAME OF ORGANISATION]** Values;
- promoting awareness of the grievance procedures with respect to discrimination as set out in this Policy;
- treating complaints of discrimination seriously and with immediate action;
- ensuring all complaints are to be taken with appropriate confidentiality and sensitivity;
- monitoring the working environment to ensure as far as practicable that acceptable standards of conduct are maintained at all times and that discrimination is not tolerated;
- ensuring that a person is not victimised for making, or being involved in, a complaint of discrimination;
- establish and maintain an environment where employees can conduct their daily work in a safe manner and where employees feel comfortable raising concerns to behaviour that would impact an employee's right to work in a safe environment;
- ensure employees are aware of available support services e.g. Employee Assistance Program (EAP);
- ensure that all discussions, communications and actions are handled with sensitivity and confidentiality.

6.3 RESPONSIBILITIES OF ALL EMPLOYEES

It is the responsibility of employees to:

- model appropriate behaviour and uphold the values of the organisation;
- not act in a manner that would be considered to be discriminatory pursuant to this policy or any applicable legislation;
- comply with this policy at all times;
- participate fully in any discrimination training that may be offered by the organisation;
- where appropriate, suggest ways in which practices, systems and procedures could be improved so as to reduce the likelihood of discrimination occurring;
- cooperate with any complaint procedure in a timely and professional manner.

7. HOW TO REPORT DISCRIMINATION

[NAME OF ORGANISATION] takes any allegations of discrimination seriously. If an employee believes they are experiencing or have witnessed discrimination, the first priority is to seek support for the employee.

[NAME OF ORGANISATION] encourages its employees to report any allegation of discrimination by following the steps outlined in the **[insert complaints and grievance policy name]**.

At any stage, employees have the option to report discrimination to the following organisations and agencies:

- The Police in your State/Territory
- Unions
- Australian Human Rights Commission
- Fair Work

8. RESPONDING TO REPORTS OF DISCRIMINATION

A complaint of discrimination must be acted upon immediately, and managed in a confidential and sensitive manner. Where a complaint of discrimination is found to be substantiated, the consequences will be determined on a case by case basis and may include disciplinary action of termination of employment.

9. BYSTANDER INTERVENTION

Bystanders, including colleagues, who witness or are aware of discrimination, have an integral role in the workplace.

Bystanders that are aware of discrimination are encouraged to:

- provide support to the colleague who is being subjected to discrimination;
- formally or informally challenge concerning behaviour; and
- report the incident.

In some situations, a witness may wish to remain anonymous and where appropriate, anonymity will be provided. However, it may not be possible in all circumstances to keep the identity of a person, or people providing information, confidential. In some situations, it may be the case that full details of allegations are required for appropriate inquiries to be made or so that a respondent is afforded procedural fairness and natural justice.

10. CRIMINAL OFFENCES

Some types of discrimination are against the law. Employees who believe they have been the victim of a criminal offence are encouraged to report the incident to police as soon as possible, as well as reporting the matter to their manager or CEO.

11. SUPPORT AND ASSISTANCE

Support is available to all employees, managers, principal lawyers and supervisors involved in reporting and managing a discrimination complaint, including after the matter has been resolved. Supports **[NAME OF ORGANISATION]** has in place are as follows:

[LIST WHAT SUPPORTS ARE AVAILABLE AT YOUR ORGANISATION]

-
-

12. FURTHER APPLICATION

[NAME OF ORGANISATION] encourages this Policy to be used by staff and volunteers when working with external stakeholders, clients and contractors.

13. POLICY REVIEW

This policy will be reviewed every two years by the CEO [in collaboration with HR MANAGER IF YOU HAVE ONE/ EXTRNAL CONSULTANTS/OR OTHERWISE]. All **[NAME OF ORGANISATION]** employees will be provided with an opportunity to have input into the review of the Policy during the consultation period.

The CEO will initially review the organisation's procedures in all areas to ensure that these are in accordance with the principles expressed in this policy, and will report to the Board on this matter.

The CEO will review any changes to the organisation's procedures in all areas to ensure that these are in accordance with the principles expressed in this policy.

Staff and volunteers will follow these procedures.

14. LEGISLATION AND RELATED POLICIES

This policy relates to:	
Standards or other external requirements	[insert NAS standards or external requirements that apply]
Legislation or other requirements	Sex Discrimination Act 1984 Charter of Human Rights and Responsibilities Act 2006 Equal Opportunity Act 2010 (Vic) Occupational Health and Safety Act 2004 (Vic) Fair Work Act 2009 (Cth)
Internal Policies [LIST RELEVANT]	Workplace equal opportunity policy Sexual harassment policy Occupational health and safety policy Workplace complaint resolution policy and procedure Discipline procedure Mission, vision and values statements Enterprise bargaining agreements [LIST] Service agreement
Contractual obligations	[insert any contractual obligations that apply]

15. POLICY REVIEW

Reviewing and approving this policy			
Frequency	Person responsible	Approval	
[How often will this policy be reviewed?]	[Position of person responsible for reviewing policy] [Union responsible for consulting on policy]	[Position of person/group who approves this policy]	
Policy review and version tracking			
Review	Date Approved	Signed	Next Review Due
1			
2			
3			



SEXUAL HARASSMENT POLICY

[NAME OF ORGANISATION]

[Insert either the overview of the policy or use this space to align the policy to reflect the organisation's individual strategic objective, mission or values]

Please note: It is recommended that all employment contracts or enterprise agreements include a clause to incorporate policies and procedures so that each policy is fully enforceable in the workplace. An example of such a clause is, "These policies and procedures [insert names of policies] are incorporated into the employment contract/enterprise agreement and impose legal obligations on all parties."

We recommend that Community Legal Centres consult with their relevant trade union to seek advice on how best to incorporate these policies into their enterprise agreement or individual employment contracts.

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Policy number [INSERT NUMBER]		Version [INSERT CURRENT NUMBER]	
Document Drafter	[INSERT NAME]	Approval date	[INSERT LATEST]
Document Approver	[INSERT WHO APPROVES THE POLICY/BOARD]	Scheduled review date	[INSERT NEXT]

1. OVERVIEW

This policy sets out the legal responsibilities and obligations of employees and volunteers of [NAME OF ORGANISATION] in relation to sexual harassment. It outlines the [NAME OF ORGANISATION] position on sexual harassment and documents the process which is to be followed should any grievances arise.

2. TARGET AUDIENCE

This policy applies to all [NAME OF ORGANISATION] employees, volunteers, students and Board members. The Policy also extends to all of the [NAME OF ORGANISATION] workplaces, including any location that employees or volunteers may be considered to be carrying out duties in the course of their employment, such as court or locations of integrated practice with other services.

This may include but is not limited to conduct that occurs:

- during a commute with a colleague travelling to an appointment (e.g. meeting);
- at a conference;
- at a team function during work hours (e.g. a lunch);
- at any after-hours work-related social function (e.g. end of year celebrations);
- in an off-site training session facilitated by a third party;
- on social media platforms (e.g. Twitter, Yammer or Facebook);
- across [NAME OF ORGANISATION] IT and infrastructure platforms/ channels including email and intranets.

This Policy applies when engaging with other employees, volunteers, students, clients or members of the public encountered in the course of working duties.

[NAME OF ORGANISATION] has an obligation to take reasonable and proportionate measures to eliminate sexual harassment in the workplace. The effect of such can range from annoyance to deep distress and can also contribute to an intimidating, hostile and offensive work environment. This has the risk of causing low productivity, absenteeism, poor health and high staff turnover.

3. PRINCIPLES

The guiding principles of this Policy are to:

- provide a safe working environment which is free from sexual harassment;
- support diversity and inclusive work practices;
- promote respect amongst all people in the workplace;
- encourage fair and equitable treatment of all people in the workplace;
- ensure employees and volunteers have reparation against sexual harassment in the workplace;
- inform employees and volunteers they may be personally liable if allegations of sexual harassment are substantiated against them.

The [NAME OF ORGANISATION] is also committed to respecting, promoting, supporting and implementing human rights set out in the Charter of Human Rights and Responsibilities 2006 (Vic) and implementing the [NAME OF ORGANISATION] Values.

4. DEFINITIONS

Sexual harassment is an unwelcome conduct of a sexual nature towards another person which could reasonably be anticipated to make that other person feel intimidated, offended or embarrassed.

A single incident is enough to be considered sexual harassment - it does not have to be repeated behaviour.

For the behaviour to be considered sexual harassment, the person engaging in unwelcome behaviour does not have to intend to be sexually harassing the other person. Sexual harassment is defined by the nature and the impact of the behaviour, regardless of the intention.

A key element of sexual harassment is that it is unwelcome. However it is important to note that if a person does not object to inappropriate behaviour at the time; it should not be assumed that they are giving their consent. Consent only exists where clear and unambiguous consent has been freely given and continues to be given.

Sexual harassment may include, but is not limited to:

- comments of a sexual nature;
- leering and staring;
- sexual propositions;
- repeated unwanted requests to go out on dates;
- making threats or promises in return for sexual favours;
- comments about a person's sex life or physical appearance;
- 'flashing';
- sexual gestures or imitating a sexual act;
- offensive screen savers on computers;
- unwanted requests for sex;
- offensive telephone calls, text messages or communications on social media platforms;
- displays of offensive photographs, reading material or objects;
- sending jokes or graphics of a sexual nature in person or by email, internet, fax or mobile phone;
- unwelcome questioning about a person's private life or body;
- unwanted touching such as brushing up against a person, fondling or hugging;
- stalking, sexual assault, indecent assault or rape (which are also criminal offences).

Sexual harassment can occur in all aspects of employment and volunteering, such as recruitment, selection, performance development and succession planning.

Sexual harassment can also occur through electronic means (such as emails, text messages or social media platforms, or by being made to view pornographic or explicit websites), even if the post was made outside of work hours. Where there is a link to employment or the organisation that the person volunteers with, employees and volunteers are subject to the same guidelines pertaining to sexual harassment electronically, as they would if the interaction was in person.

As such, employees and volunteers are required to use technology and social media responsibly in the workplace and in relation to anything or anyone associated with the workplace. This extends to the use of technology and social media outside the workplace where there is a strong connection to the employment relationship (for example, between colleagues where the foundation of the relationship is a common workplace). Further information regarding the use of technology and social media is available in the **[NAME OF ORGANISATION] [Insert IT Policy/Acceptable use of Social Media/ICT Resources Policy]**.

The [Equal Opportunity Act 2010 \(Vic\)](#) addresses sexual harassment, and similar provisions are made under the [Sex Discrimination Act 1984 \(Cth\)](#). Sexual harassment can also amount to discrimination on the grounds of gender under both the Commonwealth and State legislation.

Behaviour that is based on mutual attraction, friendship and respect is not sexual harassment,

5. POLICY

Sexual harassment in our workplaces is an unacceptable form of behaviour which will not be tolerated under any circumstances. [NAME OF ORGANISATION] is committed to providing safe, inclusive and respectful workplaces, which are free from sexual harassment. Everyone working at [NAME OF ORGANISATION] is responsible for the care and protection of our people and for reporting information about suspected sexual harassment.

Both federal and state Equal Employment Opportunity legislation provide that sexual harassment is unlawful and establish minimum standards of behaviour for all employees. No employee, volunteer or Board member at any level should subject any other employee, volunteer, client, Board member or visitor to any form of sexual harassment.

A breach of this policy will result in disciplinary action, up to and including termination of employment.

[NAME OF ORGANISATION] is fully committed to its obligation to prevent and eliminate sexual harassment in the workplace.

6. HOW TO REPORT SEXUAL HARASSMENT

[NAME OF ORGANISATION] takes any allegations of sexual harassment seriously. If an employee believes they are experiencing or witness sexual harassment, the first priority is to seek support for the employee. [NAME OF ORGANISATION] strongly encourages any employee or volunteer who feels they have been sexually harassed to take immediate action. If an employee feels comfortable in doing so, they can raise the issue with the person directly with a view to resolving the issue by discussion. The employee should identify the harassing behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stops.

However, given the seriousness of sexual harassment, it is recommended that this discussion happens in consultation with the relevant manager or CEO.

[NAME OF ORGANISATION] encourages its employees and volunteers to report any allegation of sexual harassment by following the steps outlined in the [insert complaints and grievance policy name] or in the steps outlined in this policy.

Any reports of sexual harassment will be treated seriously and promptly with sensitivity. Such reports will be treated as completely confidential but the person the subject of the complaint must be notified. The organisation will protect all those involved in the process from victimisation.

Complainants have the right to determine how to have a complaint treated, to have support or representation throughout the process, and the option to discontinue a complaint at any stage of the process.

The alleged harasser also has the right to have support or representation during any investigation, as well as the right to respond fully to any formal allegations made. There will be no presumptions of guilt and no determination made until a full investigation has been completed.

No employee or volunteer will be treated unfairly as a result of rejecting unwanted advances. Disciplinary action may be taken against anyone who victimises or retaliates against a person who has reported an incident of sexual harassment, or against any employee or volunteer who has been alleged to be a harasser.

All employees and volunteers have the right to seek the assistance of the relevant tribunal or legislative body to assist them in the resolution of any concerns.

Managers or Supervisors who fail to take appropriate corrective action when aware of harassment of a person will be subject to disciplinary action.

7. RESPONSIBILITY FOR PREVENTING AND RESPONDING TO SEXUAL HARASSMENT

7.1 RESPONSIBILITIES OF THE CEO AND BOARD OF [NAME OF ORGANISATION]

[NAME OF ORGANISATION] recognises its obligations under Occupational Health and Safety Act 2004 to provide and maintain a safe working environment. [NAME OF ORGANISATION] is committed to:

- the rights and entitlements of all employees to attend work and perform their duties, without fear of being sexually harassed in any form;
- they understand what constitutes an act of sexual harassment;
- all reasonable steps are made to eliminate sexual harassment;
- ensuring that there are clear processes in place for raising grievances and complaints;
- clearly communicating and promoting these processes amongst staff;
- monitoring the implementation of this Policy;
- identifying potential risk factors and taking prompt, reasonable action to minimize those risks including:
 - + managing organizational change in an inclusive and participatory way (e.g. consult with employees affected as early as possible and develop and maintain effective communication throughout the process);
 - + implementing work structures to prevent the risk of sexual harassment, and continually review and evaluate the systems in place (e.g. seeking feedback from employees through discussions and surveys);
 - + promoting positive working relationships within the [NAME OF ORGANISATION] workspaces.
 - + ensuring the accessible provision of information and training as necessary to support the effective implementation of this Policy;
 - + reviewing the Policy every three years or earlier as required and communicating any changes or updates to the Policy across the organisation.

7.2 RESPONSIBILITIES OF CEOs, MANAGERS AND PRINCIPAL LAWYERS

It is the responsibility of the above roles to:

- promote and model the [NAME OF ORGANISATION] Values;
- promoting awareness of the grievance procedures with respect to sexual harassment as set out in this Policy;
- treating complaints of sexual harassment seriously and with immediate action;
- ensuring all complaints are to be taken with appropriate confidentiality and sensitivity;
- monitoring the working environment to ensure as far as practicable that acceptable standards of conduct are maintained at all times and that sexual harassment is not tolerated;
- ensuring that a person is not victimised for making, or being involved in, a complaint of sexual harassment;
- establish and maintain an environment where employees and volunteers can conduct their daily work in a safe manner and where employees and volunteers feel comfortable raising concerns to behaviour that would impact an employee's right to work in a safe environment;
- ensure employees are aware of available support services e.g. Employee Assistance Program (EAP)
- ensure that all discussions, communications and actions are handled with sensitivity and confidentiality.

7.3 RESPONSIBILITIES OF ALL EMPLOYEES

It is the responsibility of employees and volunteers to:

- Model appropriate behaviour and uphold the values of the organisation;
- Comply with this policy at all times;
- Participate fully in any sexual harassment training that may be offered by the organisation;
- where appropriate, suggest ways in which practices, systems and procedures could be improved so as to reduce the likelihood of sexual harassment occurring
- cooperate with any complaint procedure in a timely and professional manner.

8. RESPONDING TO REPORTS OF SEXUAL HARASSMENT

A complaint of sexual harassment must be acted upon immediately, and managed in a confidential and sensitive manner. Where a complaint of sexual harassment is found to be substantiated, the consequences will be determined on a case by case basis and may include disciplinary action or termination of employment.

8.1 INFORMAL INTERVENTION

The Manager or Supervisor will explain the employee rights and responsibilities under organisation's policy, procedures and Equal Employment Opportunity or anti-discrimination legislation.

Informal intervention may be undertaken through a process of mediation or conciliation. During informal intervention the alleged harasser will be made aware of the allegations being made against them and given the right to respond. Both parties are entitled to have a support person present in any meeting.

This procedure will be complete when the complainant and the respondent come to an agreement on the procedure to be followed.

8.2 FORMAL COMPLAINTS PROCESS

The Manager or Supervisor may be obliged to carry out a formal investigation in relation to a complaint of sexual harassment. The formal procedure will be co-ordinated by the Manager or Supervisor, who will be guided by the CEO as appropriate.

Formal investigations may be conducted internally (by a manager) or by an external investigator. An investigation involves collecting information about the complaint and then making a finding (on the balance of probabilities) based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the investigator will make recommendations about resolving the complaint or implementing disciplinary action (including and up to termination of employment).

The investigator may need to interview the parties involved (which may include the complainant, the respondent, and any witnesses) to obtain information regarding the complaint. Both parties are entitled to have a support person present in any meeting. The investigator will comprehensively and accurately document all information obtained during the interviews including the parties involved, timing, location, and nature of conduct complained against.

If the investigator considers it appropriate for the safe and efficient conduct of an investigation, workplace participants may be stood down from work or provided with alternative duties during an investigation in which case they will be paid their normal pay during any such period.

Throughout the investigation process, all parties involved in the investigation will be regularly kept informed about the investigation.

Records are to be kept and filed in a confidential and secure place. If no confidential area is available, these notes may be sealed and forwarded to the CEO, and the documents will be maintained, unopened, in a confidential filing system. These records should be kept for a period of seven years. Under no circumstances will records be placed on the complainant's personnel file.

On the basis of the findings, possible outcomes of the investigation may include, but will not be limited to, any combination of the following:

- Disciplinary action against the harasser (e.g. demotion, transfer, suspension, probation or dismissal);
- Official warnings that are noted in the respondent's personnel file;
- Disciplinary action against the person who complained if there is strong evidence that the complaint was vexatious or malicious;
- Formal apologies and undertaking that the behaviour will cease;
- Conciliation/mediation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution;
- Reimbursing any costs associated with the harassment;
- Re-crediting any leave taken as a result of the harassment.
- Substantiated complaints may be reported to the relevant professional body (e.g. Legal Services Board)

On completion of the investigation, all parties will be informed about the investigation findings and the outcome of the investigation as appropriate and in line with confidentiality obligations.

Following an investigation concerning a sexual harassment complaint (irrespective of the findings), the Manager will:

- consult with the parties involved to monitor the situation and their wellbeing; and
- educate and remind all employees and volunteers of their obligations and responsibilities in relation to providing a workplace free from harassment.

If there has been any substantiated victimisation, disciplinary procedures will be followed.

8.3 CRIMINAL CONDUCT

Some forms of sexual harassment (e.g. sexual assault, stalking, indecent exposure, rape, obscene phone calls) may constitute criminal conduct. Such complaints will be dealt with by the relevant authorities (such as the police).

9. SUPPORT AND ASSISTANCE

Support is available to all employees, volunteers, managers, principal lawyers and supervisors involved in reporting and managing a sexual harassment complaint, including after the matter has been resolved. Supports [NAME OF ORGANISATION] has in place are as follows:

- [LIST WHAT SUPPORTS ARE AVAILABLE AT YOUR ORGANISATION]
-

10. FURTHER APPLICATION

[NAME OF ORGANISATION] encourages this Policy to be used by staff and volunteers when working with external stakeholders, clients and contractors.

11. POLICY REVIEW

This policy will be reviewed every three years by the CEO [in collaboration with HR MANAGER IF YOU HAVE ONE/ EXTERNAL CONSULTANTS/OR OTHERWISE]. All [NAME OF ORGANISATION] employees and volunteers will be provided with an opportunity to have input into the review of the Policy during the consultation period.

12. LEGISLATION AND RELATED POLICIES

This policy relates to:	
Standards or other external requirements	[insert NAS standards or external requirements that apply]
Legislation or other requirements	Charter of Human Rights and Responsibilities Act 2006 Equal Opportunity Act 2010 (Vic) Occupational Health and Safety Act 2004 (Vic) Fair Work Act 2009 (Cth)
Internal Policies [LIST RELEVANT]	Workplace equal opportunity policy Sexual harassment policy Occupational health and safety policy Workplace complaint resolution policy and procedure Discipline procedure Mission, vision and values statements Enterprise bargaining agreements [LIST] Service agreement
Contractual obligations	[insert any contractual obligations that apply]

13. POLICY REVIEW

Reviewing and approving this policy			
Frequency	Person responsible	Approval	
[How often will this policy be reviewed?]	[Position of person responsible for reviewing policy] [Union responsible for consulting on policy]	[Position of person/group who approves this policy]	
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1			
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WORKPLACE BULLYING

[NAME OF ORGANISATION]

[Insert either the overview of the policy or use this space to align the policy to reflect the organisation's individual strategic objective, mission or values]

Please note: It is recommended that all employment contracts or enterprise agreements include a clause to incorporate policies and procedures so that each policy is fully enforceable in the workplace. An example of such a clause is, "These policies and procedures [insert names of policies] are incorporated into the employment contract/enterprise agreement and impose legal obligations on all parties."

We recommend that Community Legal Centres consult with their relevant trade union to seek advice on how best to incorporate these policies into their enterprise agreement or individual employment contracts.

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Document Name Workplace Bullying		Version [INSERT CURRENT NUMBER]	
Document Drafter	[INSERT NAME]	Approval date	[INSERT LATEST]
Document Approver	[INSERT WHO APPROVES THE POLICY/BOARD]	Scheduled review date	[INSERT NEXT]

1. OVERVIEW

This policy outlines the processes by which the [NAME OF ORGANISATION] prevents and responds to workplace bullying.

2. TARGET AUDIENCE

This policy applies to all [NAME OF ORGANISATION] employees, volunteers, students and Board members.

3. DEFINITIONS

Language in this Policy is defined as:	
BULLYING	Is defined as repeated, unreasonable behaviour directed towards or from an employee or group of employees that creates a risk to health and safety.
EMPLOYEES	Refers to a person employed by [NAME OF ORGANISATION] either ongoing, fixed term, contracted or casual and whether full-time or part-time. For the purpose of this policy, employees refer also to volunteers and students.
HEALTH AND SAFETY	Refers to risk to the mental and/or physical health and wellbeing of a person.
REPEATED BEHAVIOUR	Refers to the persistent nature of the behaviour and can involve a range of behaviours over time.
UNREASONABLE BEHAVIOUR	Indicates behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.
WORKPLACE	<p>Refers to any [NAME OF ORGANISATION] premises or facilities where [NAME OF ORGANISATION] business is conducted. The workplace is not restricted to our physical work space.</p> <p>The workplace:</p> <ul style="list-style-type: none"> • extends beyond the physical boundaries of the workplace; • extends beyond the set times of work; • includes interaction with other organisations and the public, and where the individual may be seen as representing the organisation (e.g. in meetings, online social media platforms); • includes interaction between employees in a social context (e.g. Social events, professional development days and fundraisers). It may also extend to interactions outside of work hours (e.g. a colleagues party), especially if it impacts on relationships and behaviours within the workplace. <p>The workplace can extend to any situation where there is interaction with people at work (especially when the interaction has a negative impact on relationships at work).</p>

4. POLICY

[NAME OF ORGANISATION] is committed to providing a safe working environment without risks to health where all employees are treated with dignity and respect. Bullying will not be tolerated in any of the [NAME OF ORGANISATION] workplaces.

4.1 WHAT IS BULLYING?

For the purpose of this Policy, bullying is repeated, unreasonable behaviour directed towards or from an employee or group of employees that creates a risk to health, safety and wellbeing.

Bullying may be either direct or indirect and can be carried out verbally, physically or in writing (e.g. via email, social media, instant messaging and text messages). Some examples of behaviour that may amount to bullying include:

- abusive, aggressive or intimidating conduct;
- making belittling or humiliating comments;
- spreading malicious rumours or misinformation;
- teasing or practical jokes;
- deliberately excluding someone from work-related activities or events;
- unreasonable work expectations, including providing excessive or insufficient workload or setting work below or beyond a worker's skill level;
- withholding or denying access to information or resources necessary to perform work functions;
- displaying offensive material;
- pressure to behave in an inappropriate manner.

In some cases, bullying behaviors may amount to a criminal offence in [INSERT STATE].

4.2 WHAT ISN'T BULLYING?

Reasonable management actions that are carried out in a reasonable manner do not constitute bullying. Some examples of reasonable management action may include:

- allocating work;
- rostering and allocating working hours;
- setting reasonable performance goals, standards and deadlines;
- choosing not to select/promote an employee;
- informing an employee that their performance is unsatisfactory, in accordance with [NAME OF ORGANISATION] policies;
- taking other action in relation to unsatisfactory work performance (e.g. disciplinary action, or terminating employment).

5. RESPONSIBILITY FOR PREVENTING AND RESPONDING TO WORKPLACE BULLYING

5.1 RESPONSIBILITIES OF THE CEO AND BOARD OF [NAME OF ORGANISATION]

[NAME OF ORGANISATION] recognises its obligations under [Occupational Health and Safety Act 2004](#) to provide and maintain a safe working environment for its employees. [NAME OF ORGANISATION] is committed to:

- monitoring the implementation of this Policy;
- identifying potential risk factors and taking prompt, equitable action to minimise those risks including:
 - + managing organisational change in an inclusive and participatory way (e.g. consult with employees affected as early as possible and develop and maintain effective communication throughout the change process);
 - + implementing work systems to prevent the risk of bullying and review and evaluate these work systems (e.g. review resource availability and seek feedback from employees through discussions and surveys);

- promoting positive work relationships amongst colleagues in the [NAME OF ORGANISATION] workplaces.
- ensuring there are clear processes in place for raising grievances and complaints;
- clearly communicating and promoting these processes amongst staff;
- ensuring there is accessible provision of information and training as required to support the effective implementation of this Policy;
- reviewing this Policy every two years or earlier, as required and communicating any changes or updates to the Policy across the workforce.

5.2 RESPONSIBILITIES OF CEOS, MANAGERS AND PRINCIPAL LAWYERS

It is the responsibility of the above roles to:

- understand what constitutes bullying and understand how to prevent or respond;
- establish and maintain an environment where employees can conduct their daily work in a safe manner and whereby employees feel at ease raising said concerns that relate to bullying or behaviour that causes a risk to health and/or safety;
- identify behaviour that may amount to bullying, and take prompt action to address the behaviour. If the behaviour involves violence or a threat of violence, contact [INSERT STATE] Police;
- confirm staff responsibilities and accountabilities are clearly defined and agreed to;
- promote and model the [NAME OF ORGANISATION] Values;
- consult and communicate with employees and Health and Safety Representatives (HSRs) on decisions and changes that may affect their health and safety;
- ensure availability of adequate resources and information for employees to enable them to perform their role;
- respond to concerns in a timely manner;
- adhere to the [NAME OF ORGANISATION] Policies for [Complaints/Misconduct/or similar], when managing a bullying complaint;
- facilitate an environment of teamwork and cooperation;
- encourage reporting/documenting incidents onto the organisations' incidents register;
- confirm employees are aware of available support services e.g. Employee Assistance Program (EAP);
- ensure that all discussions, communications and actions are handled with sensitivity and confidentiality at all times.

5.3 RESPONSIBILITIES OF ALL EMPLOYEES

Employees are to take reasonable care for their own health, safety and wellbeing while at work and ensure that their acts or oversights do not adversely affect the health, safety and wellbeing of others. It is the responsibility of employees who believe they are experiencing a form of bullying to:

- raise matters of concern at an early stage and actively participate in the complaint management process if necessary;
- make available specific information regarding the perceived or alleged bullying in a way that allows the allegation to be considered and managed accordingly;
- maintain confidentiality and not discuss or release information relating to a bullying complaint to any third party who has no valid involvement in the process;
- ensure that any allegations relating to bullying are made honestly and not vexatiously or maliciously, or to obstruct appropriate managerial action;
- where appropriate, suggest ways in which practices, systems and procedures could be improved so as to reduce the likelihood of workplace bullying occurring;
- cooperate with any complaint procedure in a timely and professional manner.

6. HOW TO REPORT BULLYING

If an employee believes they are experiencing or witness bullying, the first priority is to seek support.

The following steps provide a guide for employees reporting bullying:

1. Report/discuss the behaviour to your manager or principal lawyer. If the behaviour relates to your manager or principal lawyer, you can elevate the matter with their direct report. When raising the matter, it is useful to communicate openly about your experience;
2. with your manager or principal lawyer's support, you may wish to use informal avenues to discuss and resolve the issues as a first point. For example, you may wish to speak about the behaviour with the person directly, with support from your manager or principal lawyer.
3. you may also choose to lodge a formal complaint of bullying. Lodging a complaint will mean that your allegations are properly considered, with an eventual outcome that will be provided to you. Based on the allegations, your manager will proceed with a process to examine your allegations and allow the person to respond to your allegations. Your complaint will contain your specific allegations of behaviour that you perceive to be bullying. It is always best to lodge your complaint in writing or email. You can also report bullying anonymously, although keep in mind this will limit your manager's ability to:
 - + examine the allegations effectively;
 - + take appropriate action suitable to your individual situation, and;
 - + endeavour to prevent further incidents of bullying for you.

7. RESPONDING TO REPORTS OF BULLYING

A complaint of bullying behaviour is to be managed in accordance with the **[NAME OF ORGANISATION]** Policies.

A manager or principal lawyer who receives a complaint of bullying can seek advice from their direct manager to determine the appropriate procedure to address it. It is important to note that bullying is misconduct and allegations of bullying will generally warrant the commencement of disciplinary proceedings to the other party. In some instances it may be appropriate to manage allegations through formal complaint resolution procedures.

8. SUPPORT AND ASSISTANCE

Support is available to all employees, managers, principal lawyers and supervisors involved in reporting and managing a bullying complaint, including after the matter has been resolved. Supports **[NAME OF ORGANISATION]** has in place are as follows:

- **[LIST WHAT SUPPORTS ARE AVAILABLE AT YOUR ORGANISATION]**

9. FURTHER APPLICATION

[NAME OF ORGANISATION] encourages this Policy to be used by staff and volunteers when working with external stakeholders, clients and contractors.

10. POLICY REVIEW

This policy will be reviewed every two years by the CEO **[in collaboration with HR MANAGER IF YOU HAVE ONE/ EXTERNAL CONSULTANTS/OR OTHERWISE]**. All **[NAME OF ORGANISATION]** employees will be provided with an opportunity to have input into the review of the Policy during the consultation period.

11. POLICY REVIEW

This policy will be reviewed every three years by the CEO **[in collaboration with HR MANAGER IF YOU HAVE ONE/ EXTERNAL CONSULTANTS/OR OTHERWISE]**. All **[NAME OF ORGANISATION]** employees and volunteers will be

provided with an opportunity to have input into the review of the Policy during the consultation period.

12. LEGISLATION AND RELATED POLICIES

This policy relates to:	
Standards or other external requirements	[insert NAS standards or external requirements that apply]
Legislation or other requirements	Charter of Human Rights and Responsibilities Act 2006 Crime Amendment (Bullying) Act 2011 Equal Opportunity Act 2010 (Vic) Occupational Health and Safety Act 2004 (Vic) Fair Work Act 2009 (Cth)
Internal Policies [LIST RELEVANT]	Workplace equal opportunity policy Sexual harassment policy Occupational health and safety policy Workplace complaint resolution policy and procedure Discipline procedure Mission, vision and values statements Enterprise bargaining agreements [LIST] Service agreement
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13. POLICY REVIEW

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APPENDIX 3 – Model Transition Leave Clause

IN THE EVENT OF AN EMPLOYEE WHO INTENDS TO OR IS TRANSITIONING GENDER:

[Employer] and [Union] will make every effort to protect the privacy and safety of transitioning workers during and post transition.

Upon request by an employee, [Employer] will update all employee records and directories to reflect the employee's name and gender change. [Employer] will ensure that all workplace-related documents, inclusive of titles, are also amended to reflect the change. This may include, but not be limited to, name tags, employee IDs, email addresses, organisational charts and rosters. No records of the employee's previous name, sex or transition will be maintained post-transition, unless required by law or requested by the employee.

[Employer] will provide safe bathroom and change-room facilities to a worker during and after transition. [Employer] and the [Union] recognises that a transitioning worker has the right to use the washroom of their lived gender, regardless of whether or not they have sought or undertaken surgeries.

[Employer] agrees to adopt a transition plan provided by [Union] as part of their policies and procedures. Upon request by an employee, [Employer] will undertake a transition plan with the employee and [Union]. The transition plan will be undertaken within a reasonable time upon request of an employee and reviewed quarterly to address any future amendments the employee wishes to make. A copy of the transition plan will be made available to the employee, [Union] and [Employer] for the duration of the transition.

DEFINITIONS:

'Transition' means:

Transitioning refers to the process where a transgender employee commences living as a member of another gender. This is sometimes referred to as the person 'affirming' their gender. This may occur through medical, social or legal changes.

Employees may transition in different ways. For example, not all will choose to undergo surgery for a range of reasons including the availability, cost and desire.

It is [Employer's] responsibility to ensure that transgender and/or transitioning employees are protected from harassment and bullying.

TRANSITION LEAVE ENTITLEMENTS:

[Employer] will provide employees a total of 20 days paid transition leave per annum for essential and necessary gender affirmation procedures, inclusive of but not limited to; medical, psychological, union consultation, hormonal, surgical, legal status and documentation amendment appointments.

Leave agreement or transition plan will include a statement from [Employer] that related time off from work will not be used for absence management, discipline or monitoring purposes. That time off from work will not lead to a break in continuity of service or loss of seniority.

SUPPORTING SOMEONE ACCESSING TRANSITION LEAVE

A person who is supporting someone accessing transition leave will be entitled to five paid days per year to do so. This may include attending appointments with them, caring for them if they have undergone surgery and so on.

TRAINING

Training for all staff around working with people who may choose to transition should accompany this clause. The training should be organised by and paid for by the employer and be offered during the usual work hours.

EMPLOYER OBLIGATIONS

24 hours notice must be provided in writing to the employee should the employer want to discuss the employee's transition plan.

The employer must uphold their commitment to the transition plan.

The employer must provide flexibility and support to the employee who is transitioning, for instance providing for the capacity to work from home/access flexible work arrangements in the instance that transition leave entitlements have been exhausted.

At a minimum the transition plan should be reviewed annually, with the worker able to request a review at any time.

Where necessary the employee can access light duties or transfer to safe work under OHS obligations.

Transitioning in the Workplace Policy Template

PURPOSE

[Employer] are committed to creating a safe, inclusive and respectful environment for all members of our community. [Employer] recognise and celebrate the rich diversity of our employees, including our lesbian, gay, bisexual, transgender, intersex, queer and asexual (LGBTIQA+) staff.

It is against the law to discriminate against an individual based on their gender identity. Under the Equal Opportunity Act 2010, an employee's gender identity and their lawful right to live free from discrimination on the basis of that identity extends to their self-identification with a gender other than their assigned gender.

This transition plan outlines the process and support available to an employee seeking to affirm or transition their gender. The gender affirmation or transition process is different for everyone but it may involve changing name, title, appearance, uniform, use of pronouns and other aspects to align to an affirmed gender.

GUIDE

These guiding questions can help [Employer] and [Union] create a plan to support transgender employees who are affirming their identity and to help prevent discrimination from occurring.

Before using this document, [Employer] should ask the employee whether they want to develop a transition plan with [Employer] and if they would like a

[Union] representative to attend these discussions.

1. Does the employee want a Union representative to be involved in discussions about the transition plan?

Yes

No

Who will this be?

2. When will the employee commence transitioning? What will this involve?

[The employee only needs to disclose information they feel comfortable with and which might be necessary to ensure they are supported at work during their transition.] There are many different ways to transition and there is no single correct way.

3. Name and pronouns?

Will the employee be changing their name? If so, what will this name be and when should others start using it?

What pronoun/s would the employee like others to use? E.g. he/she/they as appropriate

What name or pronouns should not be used?

4. Advising other employees

Will other employees be advised about the transition? How will this occur?

When will this occur?

What questions or topics of discussion about the employee's transition are acceptable/unacceptable? Which aspects of the transition can be discussed directly with the employee? Which aspects should be discussed with someone else e.g. human resources?

What resources will be made available to other workers who have questions about the employee's transition?

5. Use of toilets and facilities

When will the employee commence using toilets and facilities that are appropriate to their affirmed gender?

How will other employees be advised that the employee will commence using toilets and facilities that are appropriate to their affirmed gender?

6. What OHS safe work considerations need to be given?

For instance, if the person has undergone surgery and returned to work do they require transfer to safe work, allocation of light duties etc?

Employee _____

Name: _____ Date: _____

Signature: _____

Employer Representative _____

Name: _____ Date: _____

Signature: _____

Union Representative _____

Name: _____ Date: _____

Signature: _____

