Collection and Reporting of Staff Gender Information
CONTENTS

Overview ........................................................................................................................................... 2
Scope.................................................................................................................................................. 2
Understanding Gender Diversity ......................................................................................................... 2
Policy Position .................................................................................................................................... 2
Gender Information Principles ............................................................................................................ 3
Compliance and Reporting .................................................................................................................. 4
Responsibilities and Governance ....................................................................................................... 4
Approving Authority ........................................................................................................................... 5
Review ............................................................................................................................................... 5
Accountable Officer ............................................................................................................................ 5
Contacts ............................................................................................................................................. 5
Further Assistance ............................................................................................................................... 5

Appendix 1: VICTORIAN PUBLIC SECTOR STANDARD MODEL FOR COLLECTING STAFF GENDER INFORMATION .................................................................................................................. 6

Collecting gender information ............................................................................................................ 6
Collecting information about transgender status or intersex status .................................................... 6
Further information ............................................................................................................................... 6
Overview

The Department of Education and Training (the Department) respects its employees and its legislative obligations to support them.

One important part of achieving the above is recognising that staff have diverse gender identities. A new Policy and standard model for collecting and reporting on staff gender information in the Victorian Public Sector has been developed, for implementation across public service bodies by June 2019 and public entities by June 2021.

The Department’s Policy for the collection and reporting of staff gender information (the Policy) sets out principles that guide how the Department responds to this Whole of Victorian Government policy direction. It outlines the Department's obligations in the collection and reporting of its staff information in the context of gender, and includes a Standard Model (Appendix 1) which must be followed unless there is a specific reason not to do so which has a clear benefit and is well-communicated to staff.

Scope

Departmental staff, contractors and volunteers, including those located in schools, must comply with this Policy.

All departmental systems, which house data about departmental employees, are in scope.

TAFEs and funded non-government service providers are not in scope. Information about students is also not in scope.

Understanding Gender Diversity

Data collection about people often includes capturing a person’s sex or gender. Historically, this has typically been documented using the biological sex terms of ‘male’ and ‘female’. However, it is now understood that sex and gender are different concepts.

Sex refers to a person’s biological characteristics and is typically described as male or female. This binary state does not reflect the 1.7 percent of children born in Australia who are born with an intersex variation. An intersex person is born with atypical natural variations to physical or biological sex characteristics such as variations in chromosomes, hormones or anatomy. Intersex traits are a natural part of human bodily diversity. Not all intersex people use the term intersex.

Gender is made up of two distinct concepts: gender identity and gender expression.

Gender identity refers to the way an individual understands and identifies their gender. ‘Woman’ and ‘man’ are gender identities but gender identity extends beyond this binary framework. Some people do not identify as a woman or a man, and may use terms such as ‘gender diverse’, ‘non-binary’ or a number of other terms to describe their gender.

Gender expression refers to the way a person outwardly expresses their gender, through the way they dress, how they move, talk, behave and present themselves. The most common ways that people express their gender is through presenting as feminine, masculine or androgynous. Gender expression does not necessarily have to align with gender identity.

Transgender is an umbrella term for people whose gender does not exclusively align with the one they were assigned at birth. For example, a person may be assigned the female sex at birth but identify as a man. This term includes people who will identify as a ‘woman’ or a ‘man’ as well as gender diverse or non-binary gender identities. When a person takes steps to affirm a gender identity that is different to their sex assigned at birth, this is sometimes referred to as gender ‘transition’ or ‘affirmation’.

The Department’s practices and policies must reflect the Department’s commitment to ensuring that gender diverse and transgender employees are treated equally and with respect. Failure to acknowledge gender diverse staff in a respectful way can have a strong negative impact on those individuals, particularly in a broader social context where their identities have been hidden, unacknowledged or actively rejected.

---

Policy Position

The Department will:

- collect self-identified gender information rather than biological sex information from staff
- only collect gender information from staff when this is needed for a specific purpose, which will benefit staff in some way
- recognise and report on self-described gender identities (including non-binary and gender diverse), and recognise changes in gender over time.

Gender Information Principles

The following principles outline how staff gender information is managed in the Department.

1. THE DEPARTMENT RECOGNISES DIVERSE GENDER IDENTITIES

Departmental staff include people who have diverse gender identities. These staff need to be recognised, feel safe and be treated equally in the workplace. The Department’s obligation to do so stems from its broader legislative obligations to:

- Protect individuals against unlawful discrimination under the Equal Opportunity Act 2010
- Offer equitable and fair treatment under the Public Administration Act 2004
- Provide and maintain a safe and inclusive working environment under the Occupational Health and Safety Act 2004.

2. THE DEPARTMENT COLLECTS STAFF GENDER INFORMATION ONLY IF NECESSARY

When collecting any personal information from staff, consideration must be given to the purpose that information is required for, and whether that purpose will benefit staff in some way. Gender information is currently often collected because of longstanding practice or convention, but is not actually required. If there is no clear need for gender information, it should not be collected and the provision of such information should be voluntary.

The Victorian Charter of Human Rights and Responsibilities protects the right to privacy and reputation. In some instances, collecting an individual’s gender information can be seen to limit the right to privacy. Rights under the Charter can only be limited if a limitation is reasonable and justified (i.e. has a benefit that outweighs the negative impact of the limitation), and there are no other less restrictive options to achieve the purpose the limitation seeks to achieve.

Examples of appropriate reasons for collecting gender information include to:

- understand whether people of a particular gender have better or worse experiences at work (e.g. in an employee experience survey)
- understand workplace demographics and consider whether an organisation is an inclusive employer for people of different gender identities (e.g. in human resources systems)
- meet requirements around gender (e.g. in Victoria, at least 50 per cent of all future appointments to paid government boards and Victorian courts must be women).

Where it is necessary to collect gender information, it is important to explain the reason the information is being collected, and how it will be used. This helps to ensure that people feel comfortable and motivated to answer, and that they understand that the information will be used to ensure their workplace is meeting their needs. It is also important to ensure that privacy and confidentiality are protected, and that individuals are made aware of steps that will be taken to ensure their privacy is upheld.

---

2 Charter of Human Rights and Responsibilities Act 2006, section 13
3 Charter of Human Rights and Responsibilities Act 2006, section 7
3. THE DEPARTMENT COLLECTS GENDER INFORMATION RATHER THAN SEX INFORMATION

The Department generally does not have a legitimate need for information about the biological sex characteristics of their employees. Instead, self-identified gender identity should be collected, when required. This can be recorded as:

- Man
- Woman
- Self described (with free text input).

Further information on this can be found at Appendix 1.

Exceptions can be made to allow collection of biological sex information only where there is a clear benefit which is well communicated to staff and which outweighs the negative impact of limiting the right to privacy. This policy aligns with the Information Privacy Principles under the Privacy and Data Protection Act 2014.4

Gender information may be provided to the Department by a third party or observer. In these cases, there needs to be consideration of whether the gender reported was self-identified in that original capture. If not, some indicator may be required.

4. GENDER DIVERSE (INCLUDING TRANSGENDER) AND INTERSEX STATUS IS COLLECTED ONLY TO BENEFIT THOSE STAFF

Gender diverse people (including transgender people) and people with intersex variations can experience discrimination and harassment in the workplace. It can be confronting for a person to be asked to provide information on their gender diverse or intersex status, and individuals may not feel safe providing this information. As such, this information should only be collected if the information will be used to benefit gender diverse or intersex staff, for example to measure whether gender diverse people experience more discrimination than the wider workforce, and if the individual chooses to provide such information.

If it is necessary to collect information on gender diverse or intersex status, the reason should be clearly communicated and the information must only be used for this purpose. It is also important to ensure that privacy and confidentiality are protected and that individuals are made aware of steps that will be taken to ensure their privacy is upheld. Furthermore, questions about gender diverse or intersex status should be asked separately to questions about gender identity (rather than incorporated into those questions).

5. REPORTING OF GENDER IN ANNUAL REPORTS INCLUDES A NON-BINARY GENDER CATEGORY

All Victorian public sector agencies, including the Department, are required to publish number of staff by gender in its annual reports, as a condition of the Financial Reporting Directions (FRDs).

Since reporting on gender is mandatory, it should also be mandatory for the Department to include a self-described gender category which includes gender diverse and non-binary identities in reports, provided that confidentiality requirements are met.

Compliance and Reporting

This Policy is mandatory for the Department and its agencies. Any breaches of this Policy should be reported to the Manager of Workforce Diversity and Inclusion via line management.

Responsibilities and Governance

All staff, contractors and volunteers, including school-based staff, are responsible for ensuring their collection and reporting of gender information aligns with the principles in this Policy.

This Policy and its subsequent iterations will be published on HRWeb.

---

4 Under these principles, VPS organisations must not collect personal information unless the information is necessary for their functions or activities. If an organisation is collecting personal information from an individual, it must ensure the individual is aware why the information is being collected, and how it will be used. See Privacy and Data Protection Act 2014, Schedule 1.
Approving Authority

The Policy was approved by the Executive Director, People Division.

Review

This Policy will be reviewed and updated on an annual basis from the date of its commencement.

Accountable Officer

Executive Director, People Division

Contacts

diversity@edumail.vic.gov.au

Further Assistance

Further information, advice or assistance on any matters related to Gender and Diversity and Inclusion is available by:

- accessing the A-Z topic list on HRWeb
- using the related topics list or
- contacting Workforce Diversity and Inclusion at diversity@edumail.vic.gov.au
Appendix 1: VICTORIAN PUBLIC SECTOR STANDARD MODEL FOR COLLECTING STAFF GENDER INFORMATION

Collecting gender information

The disclosure of gender should include a self-described gender descriptor (which includes gender diverse and non-binary identities). Disclosure of such information should be voluntary and strictly protect privacy and confidentiality.

Where it is necessary to collect information on gender, an explanation must be provided as to why the information is being collected and how it will be used.

Questions on gender should have the following format:

What is your gender?
☐ Woman
☐ Man
☐ Self-described (please specify): ___________________________

All Victorian public sector agencies, including the Department, are required to publish the number of staff by gender in its annual reports, as a condition of the Financial Reporting Directions (FRDs).

Only one response should be permitted.

There is a large number of diverse gender identities including non-binary identities. As such, staff with a gender diverse or non-binary gender identities should be given the opportunity to specify their own gender in the free text field.

When reporting on gender information collected through this model, all free text responses can be reported on under a single ‘self-described’ category.

Collecting information about transgender status or intersex status

Information on a person’s transgender status or intersex status is sensitive. This information should only be collected if it:
   a) is needed for a specific purpose, and
   b) will be used to benefit transgender or intersex staff.

If collecting this information, the purpose for doing so should be clearly communicated, and the information must only be used for this purpose. Questions about transgender or intersex status should be asked separately to any question about gender (not incorporated into those questions).

Transgender status is distinct from intersex status. If you are asking about both transgender status and intersex status, this information should be sought in two separate questions, allowing a respondent to identify both transgender and intersex status if applicable.

For queries about how to ask questions on transgender status or intersex status, contact the Equality Branch, Department of Premier and Cabinet at equality@dpc.vic.gov.au.

Further information