LGBTI Inclusive Workplace Guide

CONTENTS

Overview

The Department of Education and Training (the Department) is committed to diversity and inclusion, both in terms of providing the highest level of service to the Victorian community and in reflecting the diversity of the community in our workforce.

These guidelines will assist in ensuring that our workplaces are safe, supportive and inclusive of lesbian, gay, bisexual, transgender and gender diverse and intersex (LGBTI) employees and to help build a culture of respect and dignity for all. LGBTI employees are entitled to fully participate in the workplace without being subjected to behaviour that is offensive, harassing, bullying or discriminatory.

This is consistent with Department Values, in particular, the values of Respect and Human Rights.

LGBTI communities experience poorer health outcomes and reduced social engagement due to actual or perceived prejudice. Respectful, inclusive language lessens the fear of prejudice, whilst thoughtless or disrespectful language heightens them. It is important to show respect to how people describe their own bodies, genders and relations even when they [the individual] are not present.

Inclusive language ensures everyone is treated with respect. It is free from words or tones that belittle, prejudice, discrimination or stereotype whether intentionally or not. Gender and sexuality are experienced and expressed in many ways, and using language that excludes or stereotypes can cause unintentional harm to LGBTI individuals. This includes 'positive' stereotyping of LGBTI people.

1.   Principles and Legal Framework

The guiding principles of these guidelines are based on a legal framework which supports diverse and inclusive workplaces which are free of discrimination and harassment. The Department will not tolerate discrimination and harassment in our workplaces under any circumstances.

Equal opportunity is a requirement under both Victorian and Commonwealth legislation. In Victoria, the main piece of legislation which makes it unlawful to discriminate is the Equal Opportunity Act 2010 (Vic) (EO Act 2010).
Other relevant laws in Victoria are the Charter of Human Rights and Responsibilities Act 2006 (Vic) and the Racial and Religious Tolerance Act 2001 (Vic).

The Public Administration Act 2004 (Vic) outlines the values, employment principles and standards that apply to public officials and all public sector employers. Under this Act, the Victorian Public Sector Commissioner must promote the public sector values and principles and issue standards concerning the application of the principles.

At the Commonwealth level, there is a range of equal opportunity legislation which includes the Racial Discrimination Act 1975 (Cth), the Sex Discrimination Act 1984 (Cth), the Disability Discrimination Act 1992 (Cth) and the Age Discrimination Act 2004 (Cth). The Sex Discrimination Act protects people from unfair treatment on the basis of their sex, sexual orientation, gender and intersex status.

2.   Definitions

This section is based on the Victorian Government LGBTI Inclusive Language Guide.

Key terms

- **Sexual orientation**, **sex** and **gender identity** are all separate concepts with sexual orientation used to describe a person's romantic and/or sexual attraction.

- **Sex** refers to a person's biological sex characteristics. This has historically been understood as either female or male. However, we now know that some people are born with natural variations to sex characteristics.

- **Gender** is part of how you understand who you are and how you interact with other people. Many people understand their gender as being female or male. Some people understand their gender as a combination of these or neither. Gender can be expressed in different ways, such as through behaviour or physical appearance.

Sexual orientation

- **Lesbian:** This refers to a woman who is romantically and/or sexually attracted to other women.
- **Gay:** This refers to someone who is romantically and/or sexually attracted to people of the same gender identity as themselves. This term is often used to describe men who are attracted to other men, but some women and gender diverse people may describe themselves as gay.

- **Bisexual:** This refers to a person who is romantically and/or sexually attracted to people of their own gender and other genders.
- **Asexual:** This refers to someone who does not experience sexual attraction, but may experience romantic attraction towards others.
- **Pansexual:** This refers a person who is romantically and/or sexually attracted to individuals of all genders, including non-binary genders.
- **Queer:** Queer is often used as an umbrella term for diverse genders or sexualities. Some people use queer to describe their own gender and/or sexuality if other terms do not fit.

Intersex

- **Intersex:** 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. Intersex people have a diversity of bodies, genders and sexualities. It is estimated that 1.7 per cent of children born in Australia are born with an intersex variation. There are many different intersex variations, which may or may not be evident at birth, and which have their own terms.

Gender

- **Trans (Transgender):** A trans (short for transgender) person is someone whose gender does not exclusively align with the one they were assigned at birth. Trans can be used as an umbrella term, but not everyone uses it to describe themselves. For example, a man who was assigned female at birth might refer to himself as 'a trans man', 'a man with a trans history' or just 'a man'. It is important to use the terms someone uses to describe themselves. Transition or affirmation refers to the process where a trans or gender diverse person takes steps to socially and/or physically feel more aligned with their gender. This process differs between people. Some people may change how they interact with others. Other people may change their appearance or seek medical assistance to better express their gender.
- **Gender diverse and non-binary**: Some trans people are women, some are men, some are non-binary (their gender is not exclusively female or male) and some are agender (have no gender). Gender diverse generally refers to a range of genders expressed in different ways. There are many terms used by gender diverse people to describe themselves. Language in this space is dynamic, particularly among young people, who are more likely to describe themselves as non-binary.
- **Cisgender**: A cis (short for cisgender) person is someone whose gender aligns with the sex they were assigned at birth – someone who isn't trans or gender diverse

3.   What does discrimination look like?

Many LGBTI people have positive experiences in workplaces where they feel safe, welcomed and able to be themselves. Often, these workplaces have been shaped by a combination of inclusive policies and positive leadership. However, discrimination on the grounds of sex, sexual orientation, gender identity or intersex status can and does still occur.

Discrimination can be direct – when someone is treated unfavourably on the basis of a protected attribute (for example, refusing to hire someone because they are lesbian) and indirect– when an unreasonable requirement or condition is imposed on someone that could disadvantage a person with a protected attribute (for example, where a parental leave arrangement is only available for a husband or wife). It can be overt or very subtle and can take many forms, including:

- harassment of LGBTI employees through name-calling, jokes, bullying or teasing about their sexual orientation, gender identity or intersex status
- treating partners of LGBTI employees differently to partners of non-LGBTI employees
- showing disrespect towards the lives and relationships of LGBTI employees
- excluding employees from, or making it more difficult for employees to participate in staff meetings, social events or career advancement opportunities such as professional development or higher duties assignments
- not respecting an employee's gender identity by repeatedly using the incorrect pronoun or former name, or denying access to toilets and other facilities that are appropriate to the employee's affirmed gender
- otherwise making LGBTI employees feel that they cannot be open about their sexual orientation, gender identity or intersex status.

Some groups within LGBTI communities face distinct issues which are less commonly known or understood. Bisexual people sometimes face biphobia for their attraction to and relationships with people of more than one gender. Even if a workplace is inclusive of lesbian and gay people, it can still feel unwelcoming for bisexual people. Biphobia can make bisexual people feel invisible and uncomfortable about disclosing their sexuality or talking about a relationship.

Transgender women and men can face a number of barriers to inclusion and wellbeing in the workplace. Transphobia can mean that transgender people miss out on employment opportunities, including promotion, or even be socially excluded. Transgender people may also face questioning of their gender or a lack of recognition of their gender, including in records and systems.

While there is overlap between the issues faced by LGBTI and intersex communities, it is important to recognise that intersex variations sit separately from gender and sexuality. As with other LGBT people, intersex people often encounter false assumptions around their bodies, their gender and their sexuality. In a workplace context, a key concern of intersex people is confidentiality. Intersex people may find that their sex characteristics are disclosed or discussed by their colleagues without their consent. If your workplace interacts with clients, particularly in a medical context, intersex people often find that service delivery is neither inclusive nor respectful of intersex people and their experiences.

4. Information sharing, privacy and confidentiality

An employee has the right to reasonably share information about their sexual orientation, gender identity, gender expression and intersex status in the workplace. A good guide for what is 'reasonable' is to reflect on the nature and amount of personal information that non-LGBTI employees customarily share in the workplace with colleagues and students.

An employee may also choose not to share their personal information. It is the decision of the employee when, with whom, and how much personal information they share in the workplace.

Disclosure of information received by the Department from an employee in the context of their employment must be in accordance with the Department's Information Privacy Policy and must not breach the provisions of *the* Privacy and Data Protection Act 2014 (Vic) or the Health Records Act 2001 (Vic).

5. Supporting Transgender employees

Under the EO Act 2010, gender identity can refer to a person of one sex identifying as a member of another sex or an indeterminate 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 or indeterminate sex.

The Victorian Equal Opportunity and Human Rights Commission (VEOHRC) describes *transitioning* as the process by which 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 they start living as the member of another sex that they identify as being their true gender.

6.1 Developing a Gender transition/affirmation plan

No two-people's transition is the same. The steps taken, the timing and the level of disclosure provided will vary between people. Planning is essential to a successful transition at work.. Managers and principals should develop a formal plan in consultation with the transitioning employees, if the employee wishes to do so. The content of the plan should be determined through discussions between the manager or school leader and the employee and any other support people the employee would like to involve.

This plan may include relevant information gathered from the process of developing a personalised transition plan for individual employees and may include information on:

- name changes, the use of toilets and other facilities, and workplace attire, if relevant.
- communicating relevant information to other employees, (and students and parents in a school setting)
- protecting privacy and confidentiality for transitioning employees
- dealing with any questions or concerns from employees, students and parents
- support for employees if required, such as access to the Employee Assistance Program (EAP)

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

Employees can approach a number of people including their principal or manager, regarding their intention to affirm their gender in the workplace. This allows the principal or manger to take the reasonable steps required to support the employee and provide a safe working environment throughout the transition process.

The Department encourages the use of a draft transition plan available from VEOHRC, see: Guideline - Transgender people at work.

6.2 Supporting a transition plan

Managers and principals should be mindful that an employee may need to plan to attend appointments with medical and allied health specialists (for example, psychiatrist, psychologist, endocrinologist, voice therapist, or LGBTI friendly GP), which may include extended travel time.

The employee may also need time off for example annual leave to prepare a name change process or to obtain documentation from the Registry of Births, Deaths and Marriages Victoria.

Managers and principals should be flexible when considering a leave application related to a person's gender affirmation process. Refer to the Department policy for guidance in A-Z HRWeb:

- Personal Leave Teaching Service / Public Service
- Annual Leave Teaching Service / Public Service
- Flexible Work

The Department is a member of Pride in Diversity, a national not-for-profit employer support program for LGBTI workplace inclusion. Pride in Diversity is able to provide additional support when an employee is seeking to transition in the workplace. For more information about support from Pride in Diversity, please contact the Workforce Diversity and Inclusion team.

6.3 Use of toilets and other facilities

Employees are entitled to use toilets and other facilities that are appropriate to their affirmed gender. Any staff members who have concerns about the use of toilets and facilities should raise these concerns with their manager.

6.   Using inclusive language and changing employee records

Employees (including people who identify as transgender or gender diverse, and those undergoing gender transition) must be acknowledged as the gender with which they identify.

This includes use of a new name, appropriate pronouns, and any necessary changes to email addresses, computer login details, employment records and security access to reflect this.

An employee who wishes to change their name on the Department's payroll system should complete the Employee Change of Name/Address form (under Forms in A-Z HRWeb) and return to Corporate People Services. The employee must provide official evidence of their name change, for example a certified copy of their change of name certificate.

Once a name change has been completed on the payroll, an employee can update their 'display name' in eduMail with their new name. This is completed using the My Tools menu on the eduMail name change webpage.

See: Personal Details Changes in A-Z HRWeb.

An employee can update their gender, including a non-binary option via in the employee self-service section of eduPay.

7.   Further Assistance

8.1 Contact People Division

School-based employees seeking advice or assistance can contact 1800 641 943 and follow the prompts to Schools People Services.

Employees in non-school locations can obtain advice, assistance or further information by contacting their Corporate People Services Consultant.

8.2 Workplace Contact Officers

The Department has a network of trained Workplace Contact Officers (WCO). See W in A-Z HRWeb.

The WCO network is a group of trained, regional and central Department employees who have volunteered to be a point of contact for colleagues experiencing harassment, discrimination, bullying, victimisation and family violence. A WCO can provide information, guidance and support on options to resolve or prevent issues, or refer employees to other Department support services and have undergone LGBTI training. WCOs do not manage or investigate complaints.

8.3 Employee Assistance Program

Employees can also access the Employee Assistance Program (EAP) (under A-Z HRWeb) which provides a free and confidential counselling service for any personal or work- related issues.

EAP counsellors have had specific training and are well placed to manage issues related to a person's sexual and gender identity, orientation and their interaction with their colleagues and the school community.

8.4 VPS LGBTI Helpline

A dedicated LGBTI support service is available to Victorian Public Service (VPS) employees. The service is confidential, safe and well equipped to meet the needs of LGBTI staff and allies in the VPS. Counselling services can be tailored to meet individual needs. To access this service, call 1300 542 874.

8.5 General resources

- [DET Respectful Workplaces Portal](#)
- [DET e-learning modules](#) – Respectful Workplaces, Bullying, Equal Opportunity, Human Rights and DETs Values
- [DET Workforce and Diversity LGBTI](#) collaboration page
- [Sexual orientation and gender identity discrimination](#), Victorian Equal Opportunity and Human Rights Commission
- [Guideline: Transgender people at work,](#) Victorian Equal Opportunity and Human Rights Commission guideline and transition plan to support transgender employees

[Transgender Victoria](#)

8.6 School specific resources

While some of the following materials specifically aim to create a supportive environment for LGBTI students, many of the actions will also benefit LGBTI employees.

- [Safe Schools](#) webpage and resources
- [Sexuality Education](#) webpage and resources

APPENDIX 1 CREATING INCLUSIVE WORKPLACES

KNOW THE DEPARTMENT'S POLICIES AND STRATEGIES

- The Department's Equal Opportunity Policy applies across all corporate and school workplaces:
    - ensure all employees know about the policy and its contents. See the Equal Opportunity Policy in A-Z HRWeb.
    - ensure that all employees complete the Equal Opportunity eLearning module and monitor compliance.
- The Department's *VPS Workforce Diversity & Inclusion Strategy 2017–2020* applies. See: VPS Workforce Diversity & Inclusion Strategy 2017-2020 under Diversity & Inclusion on A-Z HRWeb.

DEAL WITH DISCRIMINATION PROMPTLY

- Deal with any instances of discrimination or harassment promptly, including where employees are harassed by third parties such as parents or students
- Be familiar with the Department's complaints and grievances processes on A-Z HRWeb:
    - Complaints, information for employees
    - Grievances

USE INCLUSIVE LANGUAGE

- Language among LGBTI communities is constantly evolving; no two LGBTI people will describe themselves in the same way.
- In general, you should avoid language that assumes all people are women or men – so you could use "everyone" instead of "ladies and gentlemen"
- Don't assume that everyone is heterosexual. You might consider using the word 'partner' instead of 'husband/wife' where the gender of someone's partner is unknown.
- Avoid misgendering—use inclusive language when referring to a transgender person. If you're not sure or worried about getting it wrong, ask what gender pronoun the person would use. Always be respectful.
- Avoid asking people what terms they 'prefer' Having a 'preference' can sound as it it's a choice and most people do not feel as if they have a choice in these matters. If you need to, simply ask the person what terms they use.
- Avoid using written examples which include he/she; these can often be replaced using a non-gendered approach
- For more information about inclusive language, including terminology and how to use inclusive language see: Victorian Government Inclusive LGBTI Language Guide

BE AN ALLY

- If you hear discriminatory comments or jokes, make it known that it's not acceptable in an appropriate way.
- Demonstrate visible support by displaying the pride rainbow at your workplace or your signature block see: I support Pride resources on the Workforce Diversity and Inclusion Collaboration page.
- Corporate staff can join the DET Pride Network for LGBTI employees and allies, see: DET Pride Network

PROMOTE INCLUSION

- Promote the idea that addressing discrimination and promoting inclusion in the workplace is everyone's responsibility. Include a discussion on discrimination, inclusion or human rights at a staff or team meeting.
- Make it clear that employees are free to bring their partner to work related events where partners are invited, regardless of their or their partner's gender identity, sex or sexual orientation.
- Encourage and provide time for employees to complete the Department's Equal Opportunity, Human Rights and Respectful Workplaces online modules and know their rights and responsibilities under the Charter of Human Rights and Responsibilities 2006 (Vic).
- Observe and celebrate important events, such as MidSumma Festival, Wear it Purple Day, International Day Against Homophobia, Biphobia, Discrimination against people with an intersex variation and Transphobia (IDAHOBIT) and the Victorian Pride March.

REMEMBER THAT THE L, G, B, T AND I ARE DIFFERENT

- The VPS uses LGBTI, which stands for Lesbian, Gay, Bisexual, Trans and gender diverse and Intersex, as an inclusive umbrella abbreviation to encompass a range of diverse sexualities, genders and sex characteristics.
- When writing about LGBTI people it is best to use the term 'communities', as these are many separate and distinct communities within this umbrella term.
- People may fit more than one of these terms. Heterosexual and cis-gender people can be part of LGBTI communities. For example, there are straight trans and intersex people.
- While LGBTI communities often work together, for example to advocate for equal rights, they are multiple communities with their own distinct experiences, needs and priorities.
- Each letter is its own community that has its own needs, priorities and considerations. Some communities face greater barriers and discrimination in the workplace than others

APPENDIX 2 CONVERSATION GUIDE

ADAPTED FROM PRIDE IN DIVERSITY *A MANAGER'S GUIDE TO LGBTI WORKPLACE INCLUSION*

A respectful work environment is positive for everyone. When we are engaged with, and feel supported by, our workplace environment we tend to be our most productive and innovative.

This conversation guide is included to provide examples of respectful ways to discuss potentially challenging issues.

ISSUE: THIS IS OFFENSIVE TO TEACHERS, PARENTS AND STUDENTS WITH DIFFERENT VIEWS/BELIEFS

Initiatives to improve workplace LGBTI inclusion are not about trying to change individual values or beliefs. People's personal views, values and beliefs are their own. However, the very nature of diversity means that we will have cultural, religious and attitudinal differences amongst our employees. DET is committed to upholding human rights, which can never be taken away, but they can be balanced against each other.

Workplace inclusion is about moderating workplace behaviour and professional interactions between employees. As an employer, we have a duty of care to provide a work environment in which all employees can thrive. Moreover, it is against the law to discriminate against individuals because of their individual difference.

Supporting LGBTI workplace inclusion, opposes harmful, discriminatory or exclusive behaviour targeting some individuals based on their orientation, gender identity, expression or intersex status. The organisation is similarly opposed to destructive behaviours targeting persons of particular faiths, beliefs and/or cultural backgrounds (or any other protected attributes).

ISSUE: SEXUAL ORIENTATION SHOULDN'T BE ON DISPLAY IN SCHOOLS

While sexual orientation is a personal thing, it is on display in the workplace in ways that we might take for granted. For example, we talk about our families, bring our partners to events, place photos on our desks, wear wedding rings, and talk about our weekends.

These are all displays of sexual orientation. While they may not be a cause of concern for heterosexual people who feel accepted and normal when they talk about such things, they may be very stressful for LGBTI people who are concerned about how their sexual orientation will be perceived by their peers. LGBTI people may seek to avoid revealing these kinds of details about themselves in fear of negative consequences.

The reason we encourage open and respectful attitudes towards sexual orientation is to encourage everyone to bring their whole selves to work, so that no one has to hide who they really are when they come to work every day, or be fearful of negative consequences if they do.

ISSUE: I DON'T AGREE WITH PREFERENTIAL TREATMENT FOR ONE GROUP OF PEOPLE

Diversity and inclusion initiatives are not about raising one group over another, they are about bringing everyone up to a level playing field.

LGBTI people do not enjoy many of the same privileges that heterosexual people enjoy. For example, they may not feel comfortable talking openly about their partner or family or their sexual orientation whilst at work, and/or they may experience discrimination or harassment based on their sexual orientation.

Efforts to support LGBTI people are not about giving them an advantage over others, but rather about helping them to have an equal opportunity. It's about ensuring that everyone can come to work every day and feel safe, comfortable and able to perform to the best of their ability.

ISSUE: WORKPLACES ARE NOT THE RIGHT PLACE TO EXPLORE LGBTI ISSUES

The Equal Opportunity Act 2010 (Vic) necessitates the provision of equal opportunity to all employees regardless of age, ethnicity, disability, gender or sexual orientation. Furthermore, the Australian Human Rights Commission can now investigate and conciliate complaints of alleged discrimination and human rights violation under federal law. The Victorian Equal Opportunity and Human Rights Commission can also conciliate complaints of alleged discrimination and human rights violation under Victorian Law.

This means that cases of discrimination, harassment and victimisation must be addressed as a matter of law. Employers can be held responsible for the actions of their employees in certain circumstances, so schools and workplaces must protect themselves from legal action by creating a safe and respectful environment to all staff and students.

ISSUE: WE DON'T HAVE THAT MANY LGBTI EMPLOYEES SO IT DOESN'T MATTER

While it might not be obvious, the LGBTI community in your school/workplace is probably bigger than you think.

Typically, statistics indicate between 6-10% of the population identify as LGBTI.

Often LGBTI people choose not to risk being "out" in the workplace for fear of discrimination and harassment. Consequently, they may spend copious amounts of time and energy editing conversations and avoiding any real workplace relationships or conversations through fear. Messages of inclusion from the school/workplace can help

these people to feel that their sexual orientation won't be an issue and make them feel more comfortable to come out in the workplace if that is their preference.

Young LGBTI people in particular may struggle to be 'out' in the workplace due to fears of bullying and discrimination. LGBTI young people are often at risk of mental health issues that can stem from their perceived lack of acceptance.

LGBTI inclusion seeks to make it easier for everyone to feel comfortable being themselves when they come to work.

ISSUE: LOTS OF PEOPLE I'VE SPOKEN TO DON'T THINK THERE IS A PROBLEM

While it is wonderful to hear that some people are not experiencing problems, it is important to remember that everyone's experience is different and we may not hear from people who do not feel accepted.

Also, it is good to acknowledge the personal lens that we may be looking through. Our perception of how things are will be influenced by our own experiences and may not be the most accurate representation of someone else's reality.

LGBTI people have varying degrees of self-comfort with being out in the workplace. A lack of complaints is not an indication of workplace inclusivity, especially for a population such as LGBTI people who may remain silent out of fear, or because they have no confidence in an organisation's ability to deal with discriminating behaviour if it occurs. Furthermore, reporting discriminatory behaviour would "outing yourself" to another person and some LGBTI people may wish to avoid this.

APPENDIX 3 SCENARIOS

Five scenarios have been developed to demonstrate the legal framework and supporting resources available to executives, principals and managers when creating a safe and inclusive workplace and protecting the human rights of LGBTI employees. While they cannot encompass all the complex and difficult situations that may occur day-to-day, they aim to provide executives, managers and principals with guidance to meet workplace obligations and protect the health and wellbeing of employees.

SCENARIO 1

A teacher tells her class that she is in a same-sex relationship. The principal finds that the Department's Equal Opportunity Policy and Ministerial Order 1038 may provide assistance on how to manage this disclosure.

Maggie is a Grade 6 teacher. Her female partner, Stella, is pregnant and Maggie is planning to take six weeks of parental leave when the baby arrives.

Many of the students and parents are surprised that Maggie is taking parental leave, as she has not been visibly pregnant. In response, Maggie tells her class that her partner, Stella, is carrying the baby. Some of the parents are unhappy and one parent complains to Maggie that the children now 'know too much about her private life'.

While Maggie feels that she has not done anything wrong, she approaches the principal, for advice. The principal assures Maggie that she has not acted inappropriately by responding to questions and telling the class she is in a same-sex relationship.

The Department's Equal Opportunity Policy articulates Maggie's right not to be discriminated against or harassed because of her sexual orientation or lawful sexual activity (Equal Opportunity Act 2010, s. 6).

This policy covers all Department employees and under this policy, every member of the school has the right to work in a safe and inclusive environment free of discrimination, harassment, bullying, vilification and victimisation. Along with this right comes the responsibility to respect and promote human rights and responsibilities by behaving according to this policy.

Furthermore, Ministerial Order 1038 Part 10 'Merit, Equity and Employment Principles' provides protection against unfair treatment on the basis of a person's sexual orientation:

In the administration of this Order the following principles must be observed:

(3) All employees will receive fair and equitable treatment in all aspects of personnel management without regard to age, breastfeeding, gender identity, disability, industrial activity, lawful sexual activity, marital status, parental status or status as a carer, physical features, political belief or activity, pregnancy, race (including colour, nationality, ethnicity and ethnic origin), religious belief or activity, sex, sexual orientation an expunged homosexual conviction or personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes (s. 10.1.1).

Consider if Maggie had been in a heterosexual relationship and informed the class of a pregnant partner. It's likely that there would not have been a complaint at all. To treat Maggie differently in these circumstances would infringe her right to fair and equitable treatment in the workplace.

The principal makes it clear that the school's leadership takes these matters seriously and that Maggie will be supported should any member of the school's community engage in any discriminatory or harassing behaviour.

The principal would like to show support for Maggie and Stella amongst the school community. The school has previously run a short announcement in the school newsletter congratulating employees and welcoming new babies to their families. The principal asks Maggie if she and Stella would be comfortable with the school including an announcement in the next newsletter, to which they both agree. Maggie feels reassured that the school leadership is supportive and that she can be open about her relationship and the birth of her new baby while at work

SCENARIO 2

An intersex teacher is harassed by students. The principal turns to the Department's Safe Schools and Respectful Relationships resources and the school's employees who teach the sexual health curriculum for guidance in changing the school's culture towards gender-based harassment and discrimination.

Ravi is a 38-year-old science teacher at a secondary school. Ravi was born intersex and from an early age was raised by his parents as male. Ravi has identified as male his whole life, uses the male pronouns 'he'/'him' and dresses in a way that is stereotypically 'male'. Ravi is comfortable identifying as male, and hasn't felt the need to disclose his intersex status to the school as his employer. A group of Year 10 boys decide that there is something 'funny' about Ravi and begin a campaign of abuse and harassment. Ravi overhears the boys calling him 'gay' and 'girly' behind his back, and he feels embarrassed and harassed.

Ravi decides to discuss these experiences with his principal. The principal informs Ravi that the school's policies on bullying and harassment are clear and that abusive and harassing behaviour by any member of the school community towards any other person is unacceptable. The incident is investigated and the principal speaks directly to the students responsible. In speaking to the students, the principal realises their behaviour is based on some uninformed beliefs and negative stereotypes.

The principal discusses the matter with her peers at a regional network meeting, and she is encouraged to take more comprehensive steps to address underlying values and attitudes. The principal recognises that an intolerant school culture can seriously impede the development of a healthy learning environment and that there are wider implications of the gender-based bullying and harassment experienced by Ravi.

The principal investigates the resources available to teachers to discuss and explore issues of bullying and gender based harassment more broadly. She promotes the Department's Bully Stoppers website, and encourages teachers to find out more about dealing with bullying by creating a positive school culture. The principal recognises the importance of a whole-school approach where the school values, such as respect are modelled and demonstrated in the actions of staff and how they are taught in the classroom.

The principal works with year level coordinators and the teachers delivering the school's sexuality education program to ensure that respect for sexual diversity is comprehensively covered at all year levels. The school uses resources on the Department's Safe Schools website such as the 'Guide to Kickstarting Safe Schools' as well as Respectful Relationships Teaching and Learning Materials to refresh and strengthen the school's education programs to include gender diversity and the effect of gender-based harassment.

The school has a journey ahead of it, but the principal feels confident that using a 'whole-school' approach can assist the school's community to become more respectful of sexual diversity and the right to non-discrimination and equality.

SCENARIO 3

A manager is asked by an employee, who has strong views opposing same‑sex relationships, to require a gay colleague to take down photos of his family. The manager refers to the Public Administration Act and the DET Values for guidance.

Salvador is a policy officer at the Department. Salvador is gay and is comfortable being 'out' at work. Salvador has a framed photograph on his desk of two women, each of whom is holding a young child. If asked about the photo, Salvador proudly explains that the children are his son and daughter, whom he fathered with the same-sex couple in the photograph.

Desks in the office are arranged in an open plan format and team members are able to see family photos and other personal items kept on their colleagues' desks. One employee, Irina, complains to the manager, Brian, about Salvador's family photo. Irina says that the sight of the photo makes her 'sick' and asks Brian to require Salvador to remove the photo.

Brian asks Irina to join him in his office to discuss her complaint in private.

Brian makes it clear to Irina that the Department considers a culture that respects employee diversity and human rights to be very important, and that this environment has enabled Salvador to feel he can be honest about his life and family. He points out that this culture of respect for human rights has contributed to great employee morale, and that workforce diversity is not about valuing one employee over another—it is simply about trying to create an inclusive environment for all employees.

In the meeting with Irina, Brian points out that many employees choose to display pictures of their families at their work stations and that specifically asking Salvador to remove his photo could be potentially discriminatory. Brian explains to Irina that while she may have her own personal views, sharing these views at work have a detrimental effect on Salvador and could be considered harassment, and may result in a discrimination complaint being made against Irina.

Brian also informs Irina that if she were to make her views known to Salvador, she could be breaching her obligations under the public sector standards and the Public Administration Act 2004 (Vic) (PA Act):

- (e) respect: public officials should demonstrate respect for colleagues, other public officials and members of the Victorian community by—
    - (i) treating them fairly and objectively; and
    - (ii) ensuring freedom from discrimination, harassment and bullying; and
    - (iii) using their views to improve outcomes on an ongoing basis;

- (g) human rights: public officials should respect and promote the human rights set out in the Charter of Human Rights and Responsibilities by—
    - (i) making decisions and providing advice consistent with human rights; and
    - (ii) actively implementing, promoting and supporting human rights. (s. 7.1)

The obligations in the PA Act are reflected in the DET Values that provide a framework to guide the way employees work with each other and with those to whom they provide advice and services.

The DET Values apply to all corporate employees and include:

- Respect: we value others and accept their differences
- Human Rights: we uphold and respect the rights of others

While Irina maintains that she is entitled to her views, she agrees that she is also required to treat others respectfully in the workplace. Irina agrees that asking Salvador to remove his photo could amount to discrimination. She also acknowledges that sometimes her right to expression may be limited where a good reason for doing so exists.

Brian and Irina agree to check back in with each other in a couple of weeks, and in the meantime Brian provides Irina with some information about the Employee Assistance program under A-Z HRWeb, which Irina can access if she wants to talk through her concerns with someone. Brian also recommends that Irina do the Respectful Workplaces eLearning modules and considers undertaking LGBTI Awareness training when it is next offered through the Department.

SCENARIO 4

A teacher is receiving messages from the school principal that he should not talk about being in a same-sex relationship. The principal and teacher refer to relevant legislation, the Department's Equal Opportunity, Human Rights and Respectful Workplaces online modules and the Department's Respectful Workplaces website for guidance.

David is the biology teacher at a large high school, where Jenny is the new principal. As part of Jenny getting to know the teaching staff at her new school, she is having informal coffees with three or four staff members, a few times a week. During one of these 'get to know you' meetings David mentions his partner, Simon, as part of a friendly conversation about the employees' partners and families. David feels that Jenny retreats from the conversation after he mentions Simon, but continues to engage with the other staff present. David notices that Jenny also avoids eye contact with him.

The following morning, David sees Jenny in the school car park. Greeting Jenny with a cheery "good morning", Jenny says hello and then mentions to David that she feels it best if staff did not discuss their private lives at school, particularly their relationship status. David feels angry and embarrassed as a result of Jenny's comments. This feeling persists, especially as David becomes aware that Jenny has not cautioned any other staff members about discussing their relationships at work.

David is unsure whether Jenny is aware of her discriminatory behaviour, or whether she is acting out of bias. While neither of these make it acceptable for Jenny to discriminate against David, David decides that the best course of action would be to raise his concerns directly with Jenny as a first step, and to bring her attention how her behaviour is making him feel.

David sets up a meeting with Jenny to discuss his concerns and brings a friend, Sarasi, as a support person.

Before the meeting, David prepares by becoming acquainted with the Department's policy on Complaints – information for employees, (see Complaints under A-Z HRWeb) which provides information for employees seeking to raise concerns and provide feedback about their workplace. He reads the 'Tips for having difficult conversations' available on the Department's Respectful Workplaces Portal and takes some notes about what he plans to say in the meeting.

At the meeting, David uses clear and concise statements to describe Jenny's behaviour (asking him not to discuss his personal relationships at school) and the impact that it had on him (making him feel unwelcome in the workplace). Jenny is surprised that she made David feel angry and embarrassed. While she initially disagrees with David's assessment, on reflection she accepts that she has not asked any heterosexual employees to refrain from discussing their personal relationships at school. Jenny apologises to David for making him feel uncomfortable and thanks him for bringing the issue to her attention. Jenny agrees that she will find out more about unconscious bias and providing a supportive work environment to all employees. She completes the Department's Equal Opportunity Online module, and reviews resources available on the Safe Schools website for creating a whole of school approach to LGBTI inclusion.

David is glad that Jenny heard and accepted his feedback and that he raised it with her in the first instance. However, if Jenny was not willing to accept his feedback, or he was not happy with her response, David might have decided to raise the complaint with the regional office, or to seek further advice on unprofessional conduct from the Department's Employee Conduct Branch.

While David does not take Jenny up on her offer to make a formal written apology, he does agree that it would be a good idea to raise awareness and support for LGBTI staff and students at the school. He works with Jenny to organise an event for 'Wear it purple' day, providing an opportunity for students and staff to show their support for LGBTI youth.

SCENARIO 5

A teacher is affirming her gender and works with the school principal and the regional office to develop a transition plan for the broader school community, relying on guidance in the LGBTI Inclusive Workplaces Guidelines for further information.

Alex has been a teacher at a primary school for 10 years. While Alex was raised as a male in childhood, she lives now as a female and has commenced a process to affirm her gender. Although Alex was initially apprehensive about discussing her gender affirmation with the principal of her school, who has been very supportive of Alex and together they have developed a transition plan to map out the process and timeframes for Alex's transition in the school environment and workplace.

Alex and the principal consulted the LGBTI Inclusive Workplaces Guidelines before drafting the plan. They worked together closely on the plan, which includes details about changing Alex's employee records, the use of toilets and timing around when Alex would start to wear more 'feminine' workplace attire, if she wishes.

The principal also consulted with Alex about developing a management plan for the whole school and workplace. Alex agreed that she would like the school to support her transition with:

- a process for providing information about Alex's gender affirmation to all employees, including a discussion about inclusive language and terminology and assuring staff that it's ok to make a mistake by using the wrong gender pronouns or words, as long as this is not deliberate and repeated;
- supports for all employees, including access to the Employee Assistance Program if any staff wish to talk through the process
- an information session for the students and parents of Alex's Grade 5 class
- a clear process for any employees, students or parents to raise questions or concerns with the principal in the first instance.

The principal is aware that protecting Alex's privacy and confidentiality is important and so the principal makes sure that information is only communicated with the school community and employees with Alex's consent and in accordance with the timelines mapped out in the transition management plan.

During the parent information session, several parents raise their concerns about Alex's gender affirmation process. The parents advised that they do not have a problem with transgender people in general, they just don't want their children to have a transgender teacher.

The principal listens to the parents' concerns and recognises that many misconceptions are caused by insufficient or inaccurate information. The principal assures the parents that their concerns about Alex are unfounded and refers them to the Department's guidelines for LGBTI Inclusive Workplaces.

The principal provides the parents with copies of the information sheets that will be provided to Alex's class, and invites the school's sexuality education teacher to meet with parents to discuss the information that will be given to students about Alex's gender affirmation process. A number of the parents feel better having this additional information, but requested more time to discuss Alex's gender affirmation with their children, before Alex fully transitions in the workplace.

The principal agrees that this would be reasonable and, once Alex agrees, works with her to adjust the transition plan accordingly. The principal also provides information to the parents, and other employees about the process for raising questions and concerns going forward. The parents and employees are also informed that if they have any residual concerns about the process, they can contact the Department's regional office.

Alex has felt supported by the school leadership throughout her gender affirmation process and is confident that she will be able to work with the principal to continue finding solutions to any issues as they arise.