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# WORKPLACE DISCRIMINATION, BULLYING & HARASSMENT

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Behavioural examples regarding sexual orientation, trans or gender diverse employees and intersex employees

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# Introduction

Workplace discrimination, bullying and harassment is an issue which impacts a significant proportion of the LGBTIQ+ and gender diverse community.

Research published in 2019 from the Australian Workplace Equality Index (AWEI) indicates that 68% of the LGBTIQ+ and gender diverse community experiences unwanted jokes and commentary at work, 25% experience serious bullying, and 28% have experienced sexual harassment. The report showed that 17% of non LGBTIQ+ staff heard or witnessed bullying, harassment and commentary towards LGBTIQ+ and gender diverse staff, and of those 43% did nothing about it. Staff have a shared responsibility to ensure the workplace is an inclusive and safe space for everyone.

The behavioural examples outlined in this document have been designed to highlight what inappropriate behaviour can look like. Resources and avenues for support at the university are also outlined.

# SEXUAL ORIENTATION

## Scenario 1

Nancy and Dan work in a large administration department of the university. Nancy is the section manager. Dan is a gay man who is 'out' at work. At the end of the year, an offsite family function is planned, including rides and presents for kids, because many team members have young children.

Dan and his partner are not invited. When Dan asks Nancy why they didn't receive an invitation, she explains it is because they don't have children. Dan subsequently finds out that other team members without children received an invitation.

### Is this discrimination?

YES / NO

### What are some options that Dan could pursue?

- a. Insist to Nancy that he and his partner receive an invitation.
- b. Speak to a People and Culture adviser about this discrimination.
- c. Do nothing and start looking for another job in a more progressive workplace.
- d. Publicise this discriminatory behaviour to other colleagues.

Discrimination is very hurtful and can feel shocking, especially if the workplace has previously seemed welcoming. If Dan approaches People and Culture for support, they could speak with his manager or assist Dan to work out what to do next. Whatever action is taken should be agreed to by Dan, and there is no requirement for him to take action.

Dan writes an email to Nancy explaining that he is hurt and upset to be the only team member excluded from the team function. Nancy asks him to come to her office. She tells Dan that some team members have expressed concern about Dan being around children, because he is gay.

### Is Nancy's behaviour reasonable?

YES / NO

### **What are some ways that this situation could be addressed?**

As a manager at VU, Nancy is required to promote and uphold inclusive and anti-discriminatory values and policies of the University. When faced with homophobic comments from staff towards Dan, Nancy could have responded by reminding them that discrimination based on someone's sexual orientation is unlawful and unacceptable. She could have contacted People and Culture for support with this. Anti-discrimination training for the whole of Dan and Nancy's team may also be helpful.

## **Scenario 2**

Chiara has recently started work at the University. She identifies as queer and has a young child with her female partner. Women in her area who also have young kids regularly complain about their husbands and male partners, and include her in these conversations, assuming her partner is a man.

Chiara feels very uncomfortable that her workmates assume she's straight and doesn't feel safe to reveal her sexual orientation at work.

### **Is this an example of discrimination?**

YES / NO

Assuming that everyone is straight until they "come out" is a form of subtle or indirect discrimination.

### **How could Chiara be supported to bring her whole self to work?**

When Chiara started work, it would have been helpful for her manager to explicitly affirm the University's values and policies of inclusion for all sexual orientations. In casual conversations with their new workmate, Chiara's colleagues could have used gender-neutral pronouns about her partner to signal that they were not making any assumptions about her sexuality.

Posters in the work area and supportive messaging in email signatures are other ways that colleagues can make their commitment to inclusion visible.

## Further information

[Bullying Prevention Management Policy](#)

[Understanding & Celebrating LGBTQIA+ Identities](#)

[LGBTI Facts and Stats – Australian Human Rights Commission](#)

# TRANS OR GENDER DIVERSE EMPLOYEES

## Scenario 3

Sacha is a woman with a trans experience working in Finance at a university. She began her gender affirmation journey 10 months ago. Sacha has a gender affirmation plan in place, supported by her manager and People & Culture.

Sacha's team members often use the wrong pronouns for her and sometimes refer to Sacha by her 'dead name' (the name she used before her gender affirmation). Sacha often corrects them and asks to be called Sacha and requests her colleagues use the pronouns she/her.

### What would promote inclusive behaviours in this team?

An education workshop could help to better inform the team, and provide a space for them to ask questions. Any workshops should be discussed and agreed with by the person who's affirmed their gender.

Team members can support Sacha and each other by correcting one another's language and being more conscious about the name and pronouns they use. Sometimes it can be helpful to set up a time, e.g., over coffee, to consciously practise using new pronouns, as a way of supporting your colleague or friend.

Sacha increasingly feels anxious about going to work. Sacha and her manager Dana discuss this in their weekly catch up and Dana assures Sacha that she will remind team members to use her correct name and pronouns.

The next week Sacha is at a team meeting and Dana accidentally refers to Sacha as 'he'. Dana apologises profusely, repeatedly stating that she should know better. As the meeting ends, Dana turns to Sacha and says loudly 'I'm so sorry, I can't believe I did that!' which draws further attention to the conversation.

### What's wrong with Dana's behaviour?

Dana used the wrong pronoun to address Sacha in a team setting. Although this was a slip, the situation was made worse by drawing more attention to the error than was needed. This

may have caused Sacha to feel even more discomfort.

### **How could Dana have handled this situation differently?**

Many people will slip up when changing the pronouns they've been used to addressing a person with. It's important when this happens to quickly apologise, but not to dwell on the mistake made. Rather, pick up where you left off with the correct language, and work to ensure it doesn't happen again.

## **Further information**

**[LGBTIQA+ Inclusion SharePoint page](#)**

**[Guide to being a trans and gender diverse ally](#)**

**[Pronouns Guide](#)**

**[Pride in Diversity's Language Guide: Trans and Gender Diverse Inclusion](#)**



# INTERSEX EMPLOYEES

## Scenario 4

Mel is an intersex person who has just started a new role at the University in an administrative capacity. Mel is looking forward to meeting her supervisor Jay again after the interview, as well as her other colleagues. She has not disclosed her gender status of intersex to her employer.

Jay is showing Mel around the building and introduces her to staff around the office, before a morning tea at 11. He indicates where the staff room and facilities are. “This is Mel, she will be working in the Director’s office as the new Admin officer”. Mel’s new colleagues were welcoming at the get together, however she noticed a few having a private chat and later heard some disparaging comments as she passed their open office area and sometimes she thought they were laughing.

During the course of the next week, the same people were telling inappropriate jokes about LGBTI people during lunch, and she received offensive questions about her appearance that made her feel very uncomfortable. It was as though they were trying to ‘work her out’ and at the same time make her feel different.

### How do you think Mel might feel?

- Mel may feel ‘othered’, and possibly stigmatised and alienated.
- She may be wondering whether this is going to be a happy and professional environment to work in.
- She may feel that people think she is a ‘novelty’ to be speculated about.
- That her colleagues have caused her trouble, are uninformed and uneducated.
- That it shouldn’t be up to her to work on being accepted.
- She may feel confused as to how to act, or resigned to this situation, or vulnerable.

Mel decided that she would change her lunchtime or better still go outside in the sun. Things were new and hopefully would settle down. She has been in this situation before and knows it probably won’t go away by itself.

## What supports are available to Mel at VU?

- An online awareness program, or information about inclusivity in the workplace may support her and help to educate the team.
- Mel could speak with her manager, her People & Culture Business Partner, or a Pride Peer for support and advice about her options.
- Mel's employer could seek support from [Intersex Human Right's Australia](#) (IHRA)
- An LGBTIQ+ awareness workshop could be scheduled for the team, and the team could be reminded about the University's Discrimination, Bullying and Harassment policies, and undergo refreshed learning and development in this area.
- There may be a rep or workplace support group she could contact to get advice.
- If appropriate for Mel, she could join VU's Pride Network

Education provided to Mel's team should be communicated and cleared with Mel.

## Have the staff acted unprofessionally, or even illegally?

Mel's colleagues have exhibited bullying behaviour and sexual discrimination by exclusion and vilification. Personal characteristics, physical features, sex and intersex status are protected attributes under the Equal Opportunity Act 2010 and the Commonwealth Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013.

In Victoria, the Equal Opportunity Act 1995 has provided statutory protection from discrimination on the grounds of 'gender identity' since its amendment in 2000.

Employers have a legal responsibility to take all reasonable steps to prevent discrimination on these grounds. Employers can also be liable for the discriminatory acts of their staff through 'vicarious liability'.

## Further information

[Intersex Human Rights Australia](#)

[Employer's Guide to Intersex Inclusion](#)

[Sexual orientation, gender identity and intersex status discrimination](#)

## Further Support

Staff	Students
<p><b><u>Victoria University’s Employee Assistance program (EAP)</u></b></p> <p>1300 327 288 or call the <b><u>LGBTIQ+ Support Line</u></b> on 1300 349 950</p> <p><b><u>Elumina portal</u></b></p> <p><b><u>People &amp; Culture Business Partners (via HR Service Requests)</u></b></p>	<p><b>Safer Community</b></p> <p>Email: <b><u>safer.community@vu.edu.au</u></b></p> <p>Phone: <b><u>+61 3 9919 5707</u></b></p> <p><b><u>Report online</u></b> to Safer Community</p> <p><b>Counselling Appointments at VU</b></p> <p>Call +61 3 9919 5400 or email <b><u>student.counselling@vu.edu.au</u></b></p> <p><b>WestCASA (Western Region Centre Against Sexual Assault)</b> provides on-campus (FP), trauma informed, therapeutic counselling and support to students who are victim survivors of sexual assault and family violence.</p> <p>Email: <b><u>VUintake@westcasa.org.au</u></b></p> <p>Call WestCASA’S Counselling Intake Line: +613 92160444.</p> <p><b>VU Student Union LGBTIQA+ Officer</b> <b><u>queer@vustudentunion.com</u></b></p>

## External support

### Qlife

1800 184 527

Phone and online support for the LGBTIQ+ community- all ages

### Beyond Blue

1300 22 4636

### Rainbow Network

Has a directory to connect you with LGBTIQ+ groups and services all over Victoria.

### Lifeline

13 11 14

Crisis support and suicide prevention

### Transcend

Information for parents and families of transgender children

### Reach Out

Mental health support for young people and their parents

### BlaQ

BlaQ Aboriginal Corporation is committed to empowering the Aboriginal and Torres Strait Islander LGBTQ+SB community through innovation, inclusion, understanding and advocacy.

### Rainbow Cultures

An online directory of groups and services for culturally and linguistically diverse (CALD) LGBTIQ+ community in New South Wales and more broadly in Australia.