

# END DIVIDE THROUGH PRIDE

**A RESOURCE FOR WORKERS,  
UNIONS AND EMPLOYERS**



This resource was written and compiled by the Victorian Trades Hall Council (VTHC). VTHC is the state of Victoria's peak body for organised labour, representing 440,000 workers and their families.  
[www.vthc.org.au](http://www.vthc.org.au)

This work could not have been completed without the contributions and ideas raised of many, including Pride Chat participants, affiliated unions of Victoria, Victorian Gay and Lesbian Rights Lobby and Human Rights Law Centre.

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**We acknowledge the traditional custodians of the land on which Trades Hall stands, the Wurundjeri people of the Kulin nation. We pay our respects to their elders past, present and emerging. This land was stolen and never ceded. Always was, always will be Aboriginal land.**

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# INTRODUCTION

## Introduction

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This resource is intended to share the experiences of LGBTIQ+ workers across Victoria - including the key challenges they face, the causes and collective solutions. It can be used by workers, union delegates, organisers, Health and Safety Representatives, and employers to advocate for and protect the rights of LGBTIQ+ workers.

This resource also provides information and tools to assist workers, unions and employers to make their workplaces safe and inclusive for all workers.

Included in this resource:

- A summary of the experiences of LGBTIQ+ workers across industries and unions
- A summary of LGBTIQ+ worker's minimum legislative rights
- Example enterprise bargaining clauses for parental leave, carer's leave and transition leave
- A transitioning in the workplace policy template
- Inclusive language glossary

This resource is a result of collective discussions by hundreds of LGBTIQ+ workers across Victoria. Through their discussion, they've brought to light the overt and subtle forms of discrimination that LGBTIQ+ people still face at work every day. They also identified the collective solutions outlined in this resource, and are working towards implementing them in their own workplaces.

LGBTIQ+ people work in every single industry. They are members of every single union. Regardless of the diversity of their experiences and identities, they share many of the same challenges.

Workplaces are not always safe for them.

Every worker has a right to feel safe and respected at work, regardless of their gender identity and sexuality.

Every employer has a legal obligation to ensure the safety of their workers.

No-one should be injured or become unwell due to workplace cultures of discrimination and oppression but this does happen to LGBTIQ+ workers when Occupational Health and Safety standards are breached.

Whether you're an LGBTIQ+ worker looking for assistance, an ally who can see the harmful effects of discrimination around them, a union organiser who needs to assist an LGBTIQ+ member, or an employer who wants to fulfil your legal obligation to keep workers safe, this is a guide for you.

We welcome feedback on this resource as we consider it to be a document which will evolve as we acquire increased knowledge about this area.

## Our Solidarity Statement

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We are union.

We stand united as part of a great movement of workers.

Our diversity is our strength.

Our solidarity is our power.

We respect and take care of each other.

Prejudice and discrimination — including misogyny, racism, homophobia and all other hatreds — have no place in our movement.

We rise together.

Today and every day we commit ourselves to achieving justice, fairness, equality and dignity for all workers.

**Solidarity forever.**





We've won marriage equality,  
but the fight is far from over.





## About Pride Chats

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In late 2017, the union movement, along with many campaigners won marriage equality – but the union movement knew that the fight was not over. LGBTIQ+ people still face significant and unique challenges at work, and we set out to identify those challenges.

During 2018, We Are Union Pride undertook an extensive consultation with Victorian LGBTIQ+ workers to ascertain their experiences of work. These conversations are called Pride Chats. Across industries, unions, and life experiences, three common themes emerged:

- Bullying and harassment
- Visibility, coming out, and employment
- Management issues

The Pride Chats process is designed to be interactive and consultative and seeks to engage workers from across all sections of the community in order to represent the diverse lived experiences of LGBTIQ+ workers.

The results from Pride Chats have informed this resource and it's accompanying training package by identifying key areas for improvement for LGBTIQ+ workers in their workplaces.

### PRIDE CHAT FINDINGS

Three common challenges facing LGBTIQ+ workers emerged from the Pride Chat conversations. These challenges were shared by workers from vastly different industries, ages and identities. They will be discussed in the following sections and cover the themes of:

- Bullying and discrimination
- Visibility and coming Out
- Employment and management Issues.



## Terms you might hear

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*Language in the lesbian, gay, bisexual, transgender, intersex, queer and asexual communities (LGBTIQA+), is constantly changing. The following terms are not exhaustive of the many terms and definitions used by and about the LGBTIQA+ community. We have chosen the terms that are most relevant to this resource and are described in such a way as to assist workers, union officials and employers in understanding the information and tools in this resource.*

### Our Identity

‘Sex’, ‘sexuality’ and ‘gender’ are words that we use to think about our identity. However, the terms are not as simple as you might think. There are billions of us on the planet, each with our own unique identity, so these 3 terms need to have pretty flexible meanings to account for all of us.

### Sex

When people refer to someone’s sex (sometimes called biological or physical sex), they’re talking about that person’s identity based on their physical characteristics (e.g. having a penis, vagina, beard or breasts, etc.), genes and hormones.

Many people think of ‘male’ and ‘female’ as the only sexes, however it is more complicated than that. Some people have genetic, hormonal and physical features typical of both male and female at the same time, so their biological sex isn’t clearly male or female. This is called ‘intersex’.

### Gender

Society often expects people to look and behave a certain way, depending on their biological sex. Males are usually expected to act and look ‘masculine’, and females, ‘feminine’. However, we all express masculinity and femininity in different ways, and we all relate to elements of masculinity or femininity differently.

### Gender Identity

Gender identity is about your personal sense of who you are as a man, woman or something else, as opposed to what your sex characteristics indicate. We usually expect males to feel like men, and females to feel like women. But sometimes a male will feel like a woman, and vice versa. Some people identify as both a man and a woman, and others don’t identify as either.

Gender identity can be complex for the onlooker to understand but the bottom line is that it is not your business. To show respect you address the person as they request you to.

### Sexuality

Your sexuality is about who you're attracted to sexually and romantically. People who are attracted to others of a different sex and/or gender are known as 'heterosexual' or 'straight'. People who are attracted to others of the same sex and/or gender are known as 'homosexual', 'gay' or 'lesbian'.

Sexuality is more complicated than just being gay or straight. Some people are bisexual and like both men and women. Others see sexual attraction and gender as fluid and find labels like 'straight', 'gay' or 'bi' too rigid and fixed. These people may prefer to self-identify as 'queer'.

### Cisgender

The term cisgender (or cis for short) refers to someone whose gender identity is the same to what was assumed at birth based on the sex that they were assigned. A cisgender person may or may not identify with the term cisgender. Cisgender is typically used as a descriptive term, to categorise people as having a gender identity which matches the sex that was assigned to them at birth.

### Sistagirls and Brothaboys

Some transgender Aboriginal and Torres Strait Islander peoples use culturally specific terms. Sistagirl (sometimes Yimpininni in the Tiwi Islands) are Indigenous women who were classified male at birth but live their lives, wholly or partially as women, including taking on traditional cultural female practices. Brothaboy are Indigenous men who were classified female at birth but live their lives wholly or partially as men, including taking on traditional cultural male practices.

### Rainbow Families

Rainbow families are families where one or more people of a family are lesbian, gay, bisexual, transgender, intersex, queer and/or asexual. This includes carers, prospective parents and their children. How a person defines their family is also a very personal decision which should be respected.

### Transition

Transitioning is a very personal process. It is a person's process of developing and changing their gender expression (how they look, socialise, including legal/work documents etc.) to match their gender identity. Transition can include:

- Coming out to one's family, friends, and/or co-workers
- Changing one's name and/or sex on legal and work documents
- Possibly (though not always) hormone therapy and some forms of surgery
- Using the correct bathrooms and locker-rooms at work and in public.



There is no timeframe or way to transition. It's best not to assume how someone transitions, as it is different for everyone. It is important to ask how you can support someone through their process.

#### Hate Conduct

Hate conduct is a way of describing prejudice-motivated behavior based on a person's membership or perceived membership to a social group, such as sexuality and gender identity.

Some different kinds of hate conduct are homophobia, transphobia and misogyny. Hate conduct might include criminal behaviour, but it also importantly includes behaviour that is not criminal, such as online bullying, slurs and offensive behaviour, and undermining behaviour in the workplace.

Hate conduct can include actions that are not deemed serious enough for criminal investigation, but which have a serious detrimental impact on an individual worker's and the wider workplace's safety.

## **Breaking down the Acronym LGBTIQ+**

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*This is an acronym to refer to lesbian, gay, bisexual, transgender, intersex, queer and asexual people collectively. There are variations including shorter and longer versions that are often used. This acronym is used within this resource when referring to experiences shared by these communities. Most importantly, this is how people identify, it is a very personal sense of who they are. These identities can change over time or never at all, what is important is to respect each other, and when unsure, to always ask politely.*

#### Lesbian:

Is someone who identifies as a woman and is sexually and/or romantically attracted to other people who identify as women. Both cisgender and transgender women can identify as lesbians.

#### Gay:

Is someone who identifies as a man and is sexually and/or romantically attracted to other people who identify as men. The term gay can also be used in relation to women who are sexually and romantically attracted to other women. Both cisgender and transgender people can identify as gay.

#### Bisexual/Pansexual:

Is someone of any gender identity, who is romantically and/or sexually attracted to other or multiple people, regardless of their gender identity.

#### Transgender:

The term transgender (or trans for short) is an umbrella term referring to people whose gender identity is different to what was assumed at birth based on the sex that they were assigned. A transgender person may identify as specifically transgender, or simply as male or female, or outside of these binaries.

#### Female or Male Assigned at Birth:

This phrase refers to the process when a doctor identifies the sex of a child. This is based on physical characteristics, does the child have a penis or vagina? As a result of this, the child's gender identity is assumed based on its sex. If the child has a penis, it is a boy, if the child has a vagina, it is a girl. As the child grows older, they may or may not identify with the gender that was assumed based on their sex.

#### Intersex:

Intersex Human Rights Australia provides this definition of intersex: "Intersex people are born with physical, hormonal or genetic features that are neither wholly female nor wholly male; or a combination of female and male; or neither female nor male".

#### Queer:

Like many terms used within the LGBTIQ+ communities, the use of the word 'queer' is not universal. When used, it refers to a person whose sexual or gender identity does not conform to heterosexual or cisgender identities.

It is important to note that some people still find this term offensive due to its historical origins as a derisive word. It is important to ask if and when it is appropriate to use this word with the person, before using it.

#### Asexual:

The term asexual (or ace for short) refers to someone who has an absence of sexual and/or romantic attraction towards other people. People who identify as asexual are not drawn to other people sexually or romantically and do not desire to act upon attraction to others in a sexual way. Unlike celibacy, which is a choice to abstain from sexual activity, asexuality is an intrinsic part of who they are.







C H A P T E R O N E

# KEY CHALLENGES

Bullying and discrimination is a daily occurrence for an alarming number of LGBTQIA+ workers, and impacts every aspect of our working lives.



## Bullying and Discrimination

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39% of gay and bisexual men, 54% of lesbian and bisexual women and 77% of transgender and gender diverse workers described experiencing bullying or harassment in their workplace. Some workers described such poor working conditions that their workplace culture had evolved into an expectation for out LGBTIQ+ workers to go back 'into the closet'.

Behaviour reported was both homophobic and transphobic, including the day-to-day use of slurs, offensive jokes, and misgendering as some examples.

*"...the casual use of faggot as a generic insult and having a boss deny the existence of the issue when I raised it."*

Participants described experiencing bullying or discrimination in their workplace. Some participants described this discrimination as being explicitly due to their gender identity and/or sexuality, and manifested as being "expected to conceal my sexuality" from colleagues, clients or students.

Discrimination due to gender identity and sexuality also took the form of management limiting career opportunities for LGBTIQ+ staff.

*"Getting a job in the first place is challenging; most places are not trans-friendly and don't want to hire trans people. For example, answering callbacks from potential employers as a transfemme person, I've experienced prejudice based on voice pitch. Or, having seen my resume and invited me to come in by email, my appearance doesn't meet their expectations (I'm obviously trans), which means a lot of people won't hire me."*

What does bullying and harassment look like for an LGBTIQ+ worker? The following examples highlight the different forms bullying and harassment can take towards LGBTIQ+ workers.

- Verbal abuse - "casual use of the word faggot as a generic insult"
- Intimidation and threats - "expected to conceal my sexuality or else"
- Withholding information that is essential for someone to do their job - "Trivialising of my desire and capacity to work ... due to being transgender" "Managers stating 'your queerness was a problem in your work'"
- Excluding or isolating others - "my manager ... encouraged co-workers to bully me... based on my appearance and accessories which were considered feminine ... and jokes that were linking to my sexuality"
- Interfering with someone's personal property or work equipment - "Forced to present male at work by management, staff uniform" - Transgender woman.



Witnessing bullying and discrimination in the workplace was also cited at high levels by participants, including hearing homophobic jokes and language from colleagues and clients.

*"I work in sport, which institutionally is quite queerphobic. I often hear young kids using 'fag' or 'gay' in a negative tone."*

### **LGBTIQA+ GENDERED VIOLENCE AT WORK**

Gendered violence is any behaviour, action, system or structure that causes physical, sexual, psychological or economic harm to a worker because of their sex, gender, sexual orientation or because they do not adhere to dominant gender stereotypes or socially prescribed gender roles.

Gendered violence includes:

- Violence experienced by women because they are women
- Violence experienced by a person because they identify as LGBTIQA+
- Violence experienced by a person because they don't conform to socially prescribed gender roles or dominant definitions of masculinity or femininity
- Witnessing gendered violence directed at someone else, such as a co-worker

*"People try to turn conversations sexual and pry into my personal life and sex life constantly".*

### **EXAMPLES OF GENDERED VIOLENCE**

This includes (but is not limited to) behaviours and actions such as:

- Stalking
- Intimidation or threats
- Verbal abuse
- Ostracism or exclusion
- Rude gestures
- Offensive language and imagery
- Put downs, innuendo/insinuations
- Being undermined in your role or position
- Sexual harassment
- Sexual assault and rape.

## MISGENDERING AND USING THE INCORRECT NAME

*"My preferred name was respected by co-workers but was not updated by HR and management despite me supplying them with the proper change of name documentation".*

43% of transgender and gender diverse workers who participated in Pride Chats reported having been misgendered at work with 23% of those also reporting that managers had addressed them or referred to them using the incorrect pronouns or wrong name. This appears to be a particular challenge for those who identify as non-binary. Transgender participants also discussed the "uncomfortable" experience of having workmates comment on their clothing choices.

One participant described how at their work there had been a "refusal to accept a name more aligned with gender, even informally, without legal change".

## SEXUAL HARASSMENT BASED ON SEXUALITY AND GENDER IDENTITY

*"Supervisors have repeatedly commented about my sexuality in unwelcome ways. An example would be a supervisor asking how my partner and I have sex ('because I just can't work it out?') I was reprimanded for saying this was none of their business".*

Multiple workers reported being asked inappropriate questions about their sexuality, gender identity or sexual activities – this constitutes sexual harassment.

For example one participant described an incident with a manager at work:

*"I was sexually harassed by one of my male employers who would make crude comments about how my girlfriend wouldn't cut it and how he could make me a real woman. He even offered me money for it at one point. I quit needless to say".*

Another participant described the stress of regular experiences of sexual harassment at work based on their sexuality:

*"Being a queer female I am often fetishised and experience extreme amounts of sexual harassment and assault by coworkers, employers and customers".*



Photograph: Naomi Beverage



Photograph: Naomi Beverage

## Visibility and Coming Out

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The most common challenge reported by Pride Chat participants was regarding their visibility in the workplace as LGBTIQ+ people. This highlighted the uncertainty about whether it would be safe or acceptable to 'come out' at work, meaning to disclose their gender identity, sexuality and/or intersex status.

'Coming out' describes the process of telling another person your sexual orientation or gender identity. Coming out is often described as a process, telling co-workers, clients, students, management and countless other people. For many LGBTIQ+ people 'coming out' can be one of the biggest personal decisions they face in the workplace.

Many LGBTIQ+ workers do not disclose their sexual orientation, gender identity or that of their partner, for fear of receiving negative reactions of being discriminated against.

Participants disclosed an uncertainty about whether it would be safe to come out at work. Respondents discussed being very selective about whom they were able to reveal their identity to, for example being able to be out to their direct colleagues, but not to clients, customers or even colleagues throughout the broader workplace.

*"Parents are conservative and this leads the teachers and leadership to request of me that I do not discuss my private lives with parents and students."*

Participants also described a pressure to conceal their identity due to a perceived fear that their colleagues would react negatively and increase the likelihood of bullying and discrimination.

*"I have to closet myself regarding my sexuality as I know there will be taunting/prejudice towards me should my work colleagues know."*

Many participants reported feeling a sense "of exhaustion, and fatigue" surrounding concerns about coming out, describing it as a 'never-ending process', while some participants spoke of being perceived as LGBTIQ+ and therefore not having the opportunity to conceal their identity if they desired to do so, increasing rates of bullying and discrimination.

*"... As I work contract to contract, I have to come out in the workplace continually. This gives me anxiety".*



*"I never come out at casual jobs to avoid any potential discrimination. I downplay aspects of my personality and behaviour in interviews for the same reason."*

Deciding whether to 'come out' at work is always an individual and personal decision. 'Out at work: From prejudice to Pride' report [[www.dca.org.au/research/project/out-work-prejudice-pride](http://www.dca.org.au/research/project/out-work-prejudice-pride)] found that 74% of LGBTIQ+ workers stated that it is important to them to be able to be out at work, however only 32% were out to everyone with whom they work.

15% of workers discussed an uncertainty about whether it would be safe to come out at work. Many of these discussions revealed a nuance around 'outness' at work, with some participants able to be out to their direct colleagues, but not clients or customers.

Job security was also a key factor in the anxiety described around being visible as an LGBTIQ+ person in the workplace. Many participants who worked as a casual did not feel secure to be themselves at work for fear of being denied further work opportunities.

*"I never come out at casual jobs to avoid possible discrimination."*



**The impact of bullying and discrimination by management can be compounded by an unsupportive workplace culture.**



## Employment and Management Issues

Overwhelmingly, Pride Chat participants told us that employment and management issues were amplified by a lack of support and often direct discrimination from employers and management.

Some participants reported being bullied by their manager, as well as facing career discrimination. For example, participants described feeling a “rainbow ceiling” in regard to being denied promotions at work, and being denied employment opportunities by potential employers when they have been perceived as gay.

*“I was also told I would never be able to have the kind of career I aspired to because of my sexuality.”*

In addition to bullying and discrimination from management, participants also described an absence of a supportive and accepting workplace culture. This was predominantly discussed in terms of having limited access to workplace leave policies and corresponding enterprise bargaining agreement clauses due to their family circumstances not fitting the stereotypical heteronormative model. Participants raised concerns that parental leave and carer’s leave was often inaccessible to them, as they did not reflect the nature of LGBTIQ+ worker’s family structures.

Management was also broadly seen as unwilling or unable to act on incidents of bullying and discrimination in the workplace, furthering a sense of anxiety and fear.

*“There’s no point trying to bring things up with management because they wouldn’t take any useful action. And that’s a big problem, because actually going to someone who is homophobic [and saying] ‘Hey, I’m not comfortable with what you’re saying or doing’ doesn’t feel safe. Even if they wouldn’t physically do anything, I think it’d impact my job security and workplace environment if I spoke up.”*

Where workers reported being well understood and supported by their workplace and their union, they also stated a greater sense of wellbeing and safety at work.



C H A P T E R T W O

# KEY CAUSES









## Attitudes and Social Ideas

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When asked what they believed were the causes of the common challenges they faced at work, the majority of Pride Chat participants identified societal attitudes and social ideas that manifested in their workplace.

Homophobia and transphobia were cited by many participants as the cause behind bullying and discriminatory behaviour, as well as a widespread misunderstanding and lack of knowledge around sexuality and particularly gender identity.

*"If my colleagues understood gender, what being non-binary means and didn't assume people were straight, it would be easier. I think they don't come from a bad place, it's just unlearning certain habits."*

In addition to homophobia and transphobia, many participants identified gender stereotypes, sexism, and misogyny as key factors that produced the challenges they faced at work as LGBTIQ+ people.

Throughout our conversations with LGBTIQ+ workers, we came to realise that these are also many of the factors that produce significant incidences of gendered violence, which affects people who do not conform to dominant gender norms.

## Lack of Support and Education

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A lack of management support and education of the workforce was also identified by Pride Chat participants as a key cause for the common challenges faced by LGBTIQ+ workers.

These were identified as:

- An absence of policies and procedures designed to encourage inclusivity and support
- Failure to enforce workplace policies relating to anti-discrimination
- Failure to provide adequate facilities at work, including gender neutral bathrooms and changerooms

A failure by management to follow through on promises of workplace training and education programs around LGBTIQ+ acceptance and inclusivity was also cited by many participants, with employers instead maintaining a focus on 'tokenistic' forms of inclusion such as corporate sponsorship of and attendance at LGBTIQ+ events such as Midsumma festival. When asked what their workplace had done to make them feel safe, respected and welcome at work, one participant answered "Bugger all considering it is a large workplace!"

## Workplace Rights and Structures

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Job and work insecurity were cited often as key causes of the challenges faced at work by LGBTIQ+ people who participated in Pride Chats.

Casualisation of work and contract-based work led to further insecurity around how to act and present as an LGBTIQ+ person at work, including a lack of management concern for safety of employees, i.e. not creating safety plans, failing to provide safe workplace facilities for transgender and gender diverse employees, and failing to effectively use dispute resolution processes.

*"I have experienced: bullying (e.g. she can't get a man because she is such a bitch so she identifies as queer); harassment (e.g. after being hit on by men in the workplace having those individuals say 'what are you a lesbian or something?' and feeling like there would be nowhere and no way to address that behaviour); and I have experienced unfair work burden at holidays because of a lack of recognition of my family responsibilities, that is, work is shifted away from heterosexual people to me (e.g. automatically rostered at Christmas time year after year without negotiation because you don't mind like others do')."*

Inequitable access to leave provisions, rostering availability and salary also contributed to the difficulties described by LGBTIQ+ workers. When asked what barriers they faced at work as LGBTIQ+ workers, one participant responded:

*"Work hours and child care, supporting your family. Also, jobs earning decent wages for women make it hard in a lesbian relationship to afford not to both have to work."*







C H A P T E R T H R E E

# WHAT CAN WE DO?



## Education and Training

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Address bullying and harassment in the workplace when it arises by:

- Making clear to all staff and those who may have displayed inappropriate behaviours that it is unacceptable
- Providing training and workshops about the specific needs of LGBTIQ+ working people
- Provide individual counselling to individuals where necessary

Deliver a clear message within the workplace that homophobic and transphobic views are not acceptable by:

- Showing posters supporting the rights of LGBTIQ+ people
- Changing the use of language in policies, EBAs and fact sheets to be more inclusive of family structures in which there may be parents or partners of the same sex
- Including a Gendered Violence Clause (see resources in Chapter 5 of this booklet)

## Visibility and Support

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Explicit workplace support for LGBTIQ+ people via:

- Increased amount of positive representations of LGBTIQ+ people across workplace and union resources, materials and guides
- Posters, stickers and similar materials within a workplace were cited as a simple way in which to signal support and increase visibility
- Unions recognising LGBTIQ+ workers' issues as significant and specific and therefore be willing to represent them in a respectful and effective way
- Workplace-specific Pride Networks through which LGBTIQ+ workers could negotiate for better conditions and policies in conjunction with their union organiser.

## Workplace Structures and Management

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Improved workplace structures and management attitudes and actions toward LGBTIQ+ challenges at work were also proposed by participants in large numbers as a collective solution for workplace change:

- Ensure that all workers are safe in the workplace by ensuring employer obligations are met through application of industrial and occupational health and safety frameworks and anti-discrimination legislation

- Inclusive workplace facilities such as all-gender bathrooms and change rooms would greatly improve the safety of transgender and gender diverse workers, as well as sending a signal about inclusion of all gender identities in the workplace
- Proactive support from management particularly in the case of listening to LGBTIQ+ workers' concerns and taking action to address them with measures to independently hold employers to account where commitments have not been fulfilled.

## Job Security and Protection

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- Job security, therefore reducing barriers to employment, denial of career opportunities and anxiety surrounding 'coming out' at work for LGBTIQ+ workers on casual or contracted workplace arrangements
- Eradication of legislation that permits religious exemptions which make LGBTIQ+ workers particularly vulnerable.

## Union Visibility and Advocacy

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- Increased visibility of union delegates and officials who were knowledgeable and active on LGBTIQ+ issues
- Formation of national or local 'Pride Networks' supported and facilitated by unions to assist LGBTIQ+ workers in connecting with others within a network underpinned by industrial knowledge about workers' rights.
- Encouragement of LGBTIQ+ workers to join their unions with specifically targeted campaigns.



C H A P T E R F O U R

# ACTION WE CAN TAKE

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## Equality is Union Business – Your 10 Point Plan

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1. Unions to demonstrate their commitments to LGBTIQ+ workers by developing a statement articulating support. It is important this is developed in consultation with LGBTIQ+ members.
2. Raise the union's profile and visibility so LGBTIQ+ workers can see that joining a union has positive benefits for their community.
3. Create a climate in the union that enables LGBTIQ+ workers to 'come out' in the union; this will be important in engaging LGBTIQ+ workers to help the union promote LGBTIQ+ rights at work. Provide opportunities for LGBTIQ+ members to meet and network.
4. Work with community based LGBTIQ+ organisations and reach out to workers at local levels.
5. Put in place a union policy on LGBTIQ+ working rights and get this mandated in all union decision-making bodies within the union.
6. Publicise union policies and commitments to LGBTIQ+ workers' rights and equality in newsletters and in general social media.
7. Produce campaigning materials on LGBTIQ+ workplace issues that can be used in organising and recruitment.
8. Participate in LGBTIQ+ community based campaigns, where they relate to LGBTIQ+ working people.
9. Attend, and publicise union activities at annual Pride parades and other LGBTIQ+ events. This can include attending with banners, campaign materials and union information.
10. Put in place resources and a named officer to support LGBTIQ+ union networks and members to foster community and leadership development.

## The Australian Union Movement's Commitment

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In 2018, the Australian union movement confirmed its commitment to advocating for the rights of LGBTIQ+ workers and making workplaces safe, inclusive and respectful.

The Australian Council of Trade Unions (ACTU) passed three motions at ACTU Congress 2018:

1. Congress acknowledges the unique employment barriers and discrimination that transgender and gender diverse workers face, and that financial and employment security is a substantial barrier preventing transgender and gender diverse workers to transition, socially, medically and/or legally. Noting that non-gender affirmation in the workplace is overt discrimination, Congress supports more inclusive workplace legislation and EBA clauses to address and support transgender and gender diverse employees
2. Congress notes the successful union campaign for marriage equality and acknowledges that the fight is not over. Congress encourages affiliates to review their enterprise bargaining agreement processes to be inclusive of rainbow families by removing and reviewing existing gendered language on parental and carers leave clauses, and to fight for adoption and surrogate leave clauses
3. Congress acknowledges that the rules are broken for LGBTIQ+ workers and notes its disappointment at the current state of religious exemption legislation. There are currently over 200,000 jobs in Australia where a LGBTIQ+ worker can legally be fired, if they come out. LGBTIQ+ workers may come out requesting union won carers, compassionate and/or bereavement leave to face legal termination of employment. Congress calls for the commitment to scrap these legal protection loopholes.

These motions were put forward by the Victorian Trades Hall Council and were passed by the wider Australian union movement with the support of industries and unions across the board.

## How to create Inclusive, Safe and Respectful Workplaces

Workplaces must be inclusive, safe and afford dignity to all workers.

Inclusive and safe workplaces can be achieved through the ways we use language, set up a physical space, behave and act.

### COLLECTION OF DATA

If we need to collect data we need to consider how we ask for it and why. It is important that we are clear about why we need to know specific details about people – there are times it will be relevant and times it will not be.

Many institutions collect data on people's sex and gender. This happens in schools, hospitals, workplaces and so on. It is important to try and avoid assuming there is only a gender binary such as:

- Male
- Female

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

For example, we could ask:

*Which of the following best describes the way you think of your gender?*

*Mark as many boxes as apply:*

- ☐ Woman
- ☐ Man
- ☐ Trans/transgender
- ☐ Cisgender
- ☐ Gender diverse
- ☐ Prefer not to say
- ☐ Please specify: \_\_\_\_\_

### NAMES

The same goes for the collection of names. Some people have a preferred name that is not their legal name. In the case of transgender people, the name they use daily is likely one they have chosen themselves that reflects their identity however they may still have a legal name that was given to them at birth. Using the chosen name of a worker shows respect and there is no need to use a legal name in the workplace except when required on some official forms.



## **GENDER**

A person's gender is defined by them. When we are told by a worker what their gender is that is the gender we use even if we feel confused about it. Misgendering a person intentionally is a form of gendered violence and is not okay in the workplace. Accidental misgendering can be addressed with an apology and doing your own research to understand the issue better.

## **ENVIRONMENT AND SYSTEMS**

You have probably heard frequent reference to gender neutral toilets and issues for some people in accessing safe spaces in which to use the bathroom. Having a private space in which to use a toilet must be provided to afford people dignity.

## **WAYS OF SPEAKING ABOUT OTHERS**

It is important that we should only refer to people's sexual orientation or gender identity with the appropriate terms, preferably that they describe. There are words used such as 'dyke' or 'fag' by members of the LGBTIA+ community that are acceptable when those community members say it but would not be if someone outside of that did. This is because the origins of those words are that they were once used (and still sometimes are) as negative, discriminatory terms by people. Some areas of the LGBTIQA+ community have 'reclaimed' those words to defuse their ability to hurt them.

## **HETERONORMATIVITY**

The assumption that everyone is heterosexual (straight) and that this is the norm. We can easily fall into patterns in which we assume people are straight and therefore make assumptions about whether or not they have children or who their partner might be. Try asking after someone's 'partner' rather than their 'husband / wife' for instance and the person will let you know with their answer how they identify themselves and their relationships. This could include them continuing to use gender neutral language themselves which they are entitled to do.



## **CURIOSITY**

Don't ask intrusive or prying questions to satisfy your own curiosity. Perhaps a colleague has spoken about their partner in gender neutral terms or has just told you that they and their same sex partner have children. As much as you might feel inquisitive about that person's life don't ask them questions that might be experienced as offensive. It can be handy to think about yourself and how you might feel if someone asked you very personal questions. For example, if you are in a heterosexual relationship and have children, what would it be like if someone asked you how you got the children and are they really 'yours'? Or what if you were asked what your genitals looked like or how you have sex with your partner? Or even, what if you were asked how you knew you were heterosexual, when did you first notice and did you ever think it was just a phase? LGBTIQ+ people are frequently asked questions like this by people, most of whom are not intending harm however do inadvertently cause hurt.

## **LISTENING AND RESPECTING**

LGBTIQ+ have a right to describe themselves in a way that suits them best even if you think you know something different, for example, the 'right' way to describe them. For example, a man who has sex with men may call himself queer not gay. A trans or gender diverse person may not say they are going to transition to their correct gender but are instead affirming their gender. It is important to take the lead from the individual with whom you are speaking whilst also understanding the broader context of LGBTIQ+ people and their identities.

# **Eradicating Gendered Violence at Work**

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Gendered violence is any behaviour, action, system or structure that causes physical, sexual, psychological or economic harm to a worker because of their sex, gender, sexual orientation or because they do not adhere to dominant gender stereotypes or socially prescribed gender roles.

Gendered violence includes:

- Violence experienced by women because they are women
- Violence experienced by a person because they identify as LGBTIQ+
- Violence experienced by a person because they don't conform to socially prescribed gender roles or dominant definitions of masculinity or femininity
- Witnessing gendered violence directed at someone else, such as a co-worker.

Gendered violence can be anything from a 'blond' or 'gay' joke in the lunch room; not being valued or respected in your role because you are a woman; through to sexual harassment and assault.

Gendered violence can be perpetrated by anyone regardless of their gender, sex or sexuality. Examples of gendered violence include:

- Offensive language and imagery
- Stalking and intimidation
- Ostracism or exclusion
- Sexual suggestions & unwanted advances
- Intimidation bullying
- Rude gestures
- Put downs, innuendo insinuations
- Physical assault, sexual assault and rape.

Gendered violence causes physical and psychological harm and poses a significant risk to the health, safety and wellbeing of workers. Gendered violence harms workers in a range of ways; it can cause social isolation, anxiety, stress related illness, and can result in workers leaving employment or even suicide. The cost of this to a workplace is significant, including loss of morale, lower productivity, damage to organisational reputation, and costs associated with handling investigations and breaches of legislation.

## **STRATEGIES**

- Join the We Are Union Women and Equality campaign to eradicate gendered violence in the workplace [[www.wauw.org.au](http://www.wauw.org.au)]
- Engage in the We Are Union Women Safe, Respectful Workplaces: Eradicating Gender - based OHS Hazards at Work. Training found here: [www.unionwomen.org.au/training.blog](http://www.unionwomen.org.au/training.blog)
- Refer to the We Are Union Women Stop Gendered Violence Training through Union Action Resource
- Refer to the Worksafe Gendered Violence Guidance (available 2019)
- Apply OHS and industrial legislation and frameworks to the issue of gendered violence in the workplace

All LGBTQIA+ workers have the right to be free from discrimination at work. Unions are at the forefront of enforcing those rights.



## Our Rights at Work

Workplace rights theoretically exist for all workers, but LGBTIQ+ workers frequently need to decide whether it is safe to disclose their identity and family circumstances. For example, those who work for a religious employer could be fired upon disclosing their identity.

*Veronica needs to finish early on Tuesdays to pick up her young son from pre-school, as her wife has returned to work. She has the right to apply for flexible working arrangements, but she is required to explain why she needs this adjustment in work hours. Veronica is not out as gay to her employer, and fears that she will be discriminated against if she comes out. She chooses not to request flexible working arrangements as it seems too risky, and she needs to keep her job.*

Similar risks as described in Veronica's story apply for LGBTIQ+ workers who need to apply for personal carer's/compassionate leave and parental leave, as legislated under the National Employment Standards.

Type of Right	Relevant Legislation
Right to be free from discrimination at work including recognition that sexuality and gender identity are protected attributes. Currently there are some exemptions from anti-discrimination legislation for religious employers	<i>Fair Work Act 2009</i> <i>Equal Opportunity Act 2010 (VIC)</i> <i>Sex discrimination Act 1984</i> (Federal Coverage)
Right to a safe workplace (including free of discrimination, bullying and gendered violence)	<i>Occupational Health and Safety Act 2004 (VIC)</i>
Right to request flexible work arrangements	<i>National Employment Standards</i> (Commonwealth)
Right to unpaid personal carer's leave/compassionate leave	<i>National Employment Standards</i> (Commonwealth)
Right to unpaid parental leave	<i>National Employment Standards</i> (Commonwealth)
Right to be free of sexual harassment	<i>Equal Opportunity Act 2010</i>





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C H A P T E R F I V E

# **EXAMPLE CLAUSES AND POLICIES**

## Example Parental Leave Clause

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All employees, including full-time, part-time, and eligible casual employees will be entitled to the equivalent of 26 weeks paid parental leave as part of the 18 months unpaid parental leave provision of the award, to be taken in connection with:

- The birth of a child either before and/or after the birth
- The placement of a child for adoption
- The employee has or will have responsibility for the care of the child
- The employee has entered into a surrogacy arrangement.

Parental leave will be taken within the first two years of the eligibility for parental leave. Parental leave entitlements can be split and taken in multiple periods providing all periods are within the two year window.

[Employer] must not fail to re-engage a casual employee because the employee is or has been immediately absent on parental leave.

### **DEFINITIONS**

‘Parent’ includes an employee who has responsibility for the care of a child as a result of:

- The birth of a child either before and/or after the birth
- The placement of a child for adoption or permanent guardianship
- The employee has entered into a surrogacy arrangement.

‘Surrogate’ includes the birth parent and anyone assuming parental responsibilities of a child in a surrogacy arrangement.

‘Child’ means:

- In relation to birth-related leave, a child (or children from multiple births) of the employee
- In relation to adoption/guardian-related leave, a child (or children) who will be placed with an employee
- In relation to surrogacy-related leave, a child (or children) of the birth parent or of expecting parents of a child (or children).

‘Eligible casual employee’ means a casual employee who is employed by [Employer] on a regular and systematic basis for a continuing period of at least twelve months; and who has, but for accessing parental leave under this clause, a reasonable expectation of continuing employment by [Employer] on a regular and systematic basis.

## **PARENTAL LEAVE ENTITLEMENTS**

In addition to the provisions contained below staff are entitled to the Federal Government's provision of Paid Parental Leave for 18 weeks.

In the event that the Federal Government legislation in relation to Paid Parental Leave entitlements changes, this provision will be reviewed by the Consultative Committee. The principle underpinning any such review will be that the overall benefits available to staff under this clause will not be reduced.

An employee who is a parent or carer is entitled to paid parental leave of up to 26 weeks at full pay or 52 weeks at half pay for the birth, placement, adoption, care or arrangement of a child.

An employee who is a parent or carer is entitled to 24 months unpaid parental leave, including 26 weeks of paid leave. This can be taken in one or two continuous blocks during the first two years from the birth, placement, adoption, care or arrangement of a child.

Where the pregnancy of an employee not then on parental leave terminates other than by the birth of a living child, the employee may take leave for such periods as a registered medical practitioner certifies as necessary, up to 26 weeks paid leave and up to 24 months unpaid leave.

## **PARENTAL LEAVE AND OTHER ENTITLEMENTS**

An employee may in lieu of or in conjunction with parental leave, access any annual leave or long service leave entitlements which they have accrued.

Unpaid parental leave shall not break an employee's continuity of employment and it will count as service for leave accrual such as annual, sick and long service. Superannuation must also continue to be paid whilst the employee is on parental leave. Employees can resign from their position while on parental leave however; they must provide the required notice of resignation as set out in this Agreement.



### **ADDITIONAL PARENTAL LEAVE BENEFIT**

Employees who are entitled to paid parental leave are also entitled to a further six weeks paid parental leave benefit for their use in accordance with their needs in the following areas:

- Extend the 26 weeks paid parental leave to 32 weeks
- Convert the parental leave benefit into a lump sum superannuation payment
- Convert the parental leave benefit to make up additional paid work hours/days when returning to work part time from parental leave. This can be used to facilitate childcare needs.

### **PRE NATAL LEAVE**

In addition to the parental leave provisions of this Agreement, an employee who presents a medical certificate from a registered medical practitioner stating that they are pregnant will have access to paid leave totalling up to 35 hours per pregnancy to enable them to attend the routine medical appointments associated with the pregnancy.

The work unit should be flexible enough to allow such employees the ability to leave work and return on the same day.

On presentation of a medical certificate stating such, any employee who has a partner who is pregnant will have access to paid leave under this sub-clause totalling up to 14 hours per pregnancy to enable their attendance at routine medical appointments associated with the pregnancy. Each absence may be covered by a medical certificate.

### **PRE-ADOPTION LEAVE**

An employee, who is in the process of adopting a child or securing permanent guardianship of a child, is entitled to take up to two days paid leave to attend any interviews or examinations required in order to obtain approval for the adoption or guardianship.

The employer may require the employee to provide satisfactory evidence supporting the leave, such as confirmation relating to the placement of the child from the appropriate agency or government authority.

The work unit should be flexible enough to allow such employees the ability to leave work and return on the same day.

Once a child is placed with a parent that parent is entitled to access the paid parental leave entitlement.

### **PERSONAL/CARER'S LEAVE AND PREGNANCY**

An employee who is suffering from an illness that is not related to their pregnancy may take any paid personal leave to which they are entitled in addition to unpaid parental leave.

An employee who is suffering from an illness related to their pregnancy is entitled to; a reduction in their ordinary hours of work; paid personal leave; and/or further unpaid parental leave, as a medical practitioner certifies as necessary.

### **EXTENDING PARENTAL LEAVE**

Extending the initial period of parental leave:

An employee who is on an initial period of parental leave of less than their full entitlement may extend the period of their parental leave on one occasion up to the full entitlement.

The employee must notify [Employer] in writing at least four weeks prior to the end date of their initial parental leave period. The notice must specify the new end date of the parental leave and completed in the relevant form.

### **RIGHT TO REQUEST AN EXTENSION TO PARENTAL LEAVE**

An employee who is on parental leave may request an extension of unpaid parental leave for a further period of up to six months immediately following the end of the current parental leave period.

In the case of an employee who is a member of an employee parental arrangement, the period of the extension cannot exceed six months, less any period of parental leave that the other member of the employee couple will have taken in relation to the child.

The employee's request must be in writing and given to [Employer] at least four weeks before the end of the current parental leave period.

[Employer] will not refuse the request unless [Employer] has given the employee a reasonable opportunity to discuss the request before reaching a decision. [Employer] will give a written response to the request as soon as practicable, and no later than 21 days after the request is made. The response will include the details of the reasons for any refusal.

### **CALCULATION OF PAY FOR THE PURPOSES OF PARENTAL LEAVE**

The calculation of weekly pay for paid parental leave purposes will be based on the number of ordinary hours worked by the employee directly proceeding the application for paid parental leave. The calculation will exclude periods of unpaid parental leave.

The average number of weekly hours worked by the employee, determined in accordance with the above, will be then applied to the annual salary applicable to the employee's classification and salary point at the time of taking parental leave to determine the actual rate of pay whilst on parental leave.

The employee may elect to take any paid parental leave entitlement at half pay for a period equal to twice the period to which the employee would otherwise be entitled.

### **RETURNING TO WORK**

#### **RETURNING TO WORK EARLY**

During the period of parental leave an employee may return to work at any time as agreed between [Employer] and the employee, provided that time does not exceed four weeks from the recommencement date desired by the employee.

In the case of adoption or permanent guardianship, where the placement of an eligible child with an employee does not proceed or continue, the employee will notify [Employer] immediately and [Employer] will nominate a time not exceeding two weeks from receipt of notification for the employee's return to work.

#### **RETURNING TO WORK AT CONCLUSION OF LEAVE**

- (i) At least four weeks prior to the expiration of parental leave, the employee will notify employer of their return to work after a period of parental leave.
- (ii) Subject to (iii) below, an employee will be entitled to the position that they held immediately before proceeding on parental leave. In the case of an employee transferred to a safe job, the employee will be entitled to return to the position they held immediately before such transfer.
- (iii) Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee will be entitled to a position comparable in status and pay to that of their former position.

**SURROGACY**

The employer acknowledges a surrogacy arrangement is a private matter. An employee who is a surrogate is entitled to all of the provisions of the parental leave clause and will be eligible to receive paid parental leave for up to 26 weeks from the date of birth for the purpose of recovery.

Prior to commencing parental leave the surrogate and their manager will discuss the length of their parental leave and a return to work date.

Paid parental leave entitlements apply to intended parents.

**SUPERANNUATION PAID ON PARENTAL LEAVE**

Employer superannuation contributions of 12% shall be paid, as if the employee was receiving their usual pay, for the first 52 weeks of parental leave (whether paid or unpaid).

**OTHER PARENTING LEAVE ENTITLEMENT**

An employee who becomes a parent under any other parenting arrangement is entitled to 26 weeks paid parenting leave on full pay or 52 weeks at half pay.





## Example Carers Leave Clause

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### DEFINITIONS

‘Child’ means:

- In relation to birth-related leave, a child (or children from multiple births) of the employee
- In relation to adoption/guardian-related leave, a child (or children) who will be placed with an employee
- In relation to surrogacy-related leave, a child (or children) of the birth parent or of expecting parents of a child (or children)

‘Eligible casual employee’ means a casual employee who is employed by [Employer] on a regular and systematic basis for a continuing period of at least 12 months; and who has, but for accessing parental leave under this clause, a reasonable expectation of continuing employment by [Employer] on a regular and systematic basis.

### CARER’S LEAVE ENTITLEMENTS

- i. All employees, including eligible casual employees, may take leave on full pay of up to 10 days per calendar year (pro rata for part-time employees) to attend to family, carer’s needs and/or personal emergencies. Examples of this type of leave include but are not limited to:
  - a. illness of a child, dependant, household member, partner, or close relative, companion or friend
  - b. short notice disruptions to child care arrangements;
  - c. other unforeseen circumstances.
- ii. [Employer] may grant additional carer’s leave. When managers are assessing the desirability of agreeing to additional carer’s leave, they should consider:
  - a. the urgency of the need for the carer to provide further care
  - b. any exceptional circumstances
  - c. the need for compassion.
- iii. Carer’s leave does accumulate from year to year.
- iv. If an employee has exhausted their paid carer’s leave entitlement they may access their accrued sick leave for the purpose of carer’s leave.
- v. [Employer] acknowledges that some employees may not feel safe to disclose the details of their personal life to their managers. All reasons for leave will remain confidential unless the employee wishes to share them.
- vi. An employee who does not feel safe applying for carer’s leave via their manager may contact a designated staff member within human resources to process the leave application. This process will remain confidential.

## Example Transition Leave Clause

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### **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

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### 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.

### SCOPE

The transition plan applies to all employees of [Employer], Employees, include all employees, contractors, agents, adjuncts, official visitors and other individuals performing services/work for and on behalf of [Employer] or who are engaged in activities reasonably connected with [Employer].

### 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?

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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.

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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?

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

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What name or pronouns should not be used?

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#### 4. Advising other employees

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

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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?

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

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#### 5. Use of toilets and facilities

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

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

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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?

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Employee  
Name: \_\_\_\_\_ Date: \_\_\_\_\_  
  
Signature: \_\_\_\_\_

Employer Representative  
Name: \_\_\_\_\_ Date: \_\_\_\_\_  
  
Signature: \_\_\_\_\_

Union Representative  
Name: \_\_\_\_\_ Date: \_\_\_\_\_  
  
Signature: \_\_\_\_\_



## Gendered Violence Model Clause

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### **STATEMENT OF EMPLOYER RECOGNITION AND COMMITMENT ON GENDERED VIOLENCE (GV)**

1. The employer recognises that:
  - 1.1. gendered violence is a serious health and safety hazard; and
  - 1.2. no worker should experience gendered violence at work.
2. The employer has an obligation to provide a working environment that is safe and without risk to health. This obligation includes a requirement to take all reasonably practicable steps to remove gendered violence from this workplace.

### **DEFINITION OF GV**

3. Gendered violence is any behavior, action, system or structure that causes physical, sexual, psychological or economic harm to a worker because of their sex, gender, sexual orientation or because they do not adhere to dominant gender stereotypes or socially prescribed gender roles.
4. Gendered violence includes:
  - 4.1. violence experienced by women because they are women;
  - 4.2. violence experienced by a person because they identify as LGBTIQ+;
  - 4.3. violence experienced by a person because they don't conform to socially prescribed gender roles or dominant definitions of masculinity or femininity;
  - 4.4. witnessing gendered violence directed at someone else, such as a co-worker
5. Examples of gendered violence include (but are not limited to) behaviors and actions such as:
  - stalking
  - intimidation or threats
  - verbal abuse
  - ostracism or exclusion
  - rude gestures
  - offensive language and imagery
  - put downs, innuendo/ insinuations
  - being undermined in your role or position
  - sexual harassment
  - sexual assault and rape.

## **MEASURES TO ADDRESS GV AT THE WORKPLACE**

- 6.** Gender inequalities, sexism, homophobia and transphobia at work drive gendered violence at work. Gendered violence can be perpetrated by those who are strangers/external to the workplace, and those who are internal to the workplace - clients (including inmates, patients, students, and customers), work peers and managers.
- 7.** The employer will therefore take positive steps to:
  - 7.1. eliminate gender inequalities that exist in the workplace;
  - 7.2. overcome gender segregation where it exists;
  - 7.3. eradicate cultures of sexism and misogyny;
  - 7.4. eradicate homophobia and transphobia; and
  - 7.5. promote the benefits of gender equality and workplaces that are inclusive of workers from a range of backgrounds, experiences and identities.

## **DEVELOPMENT OF AN ACTION PLAN**

- 8.** Addressing the factors that underpin gendered violence will assist in preventing and eliminating that violence.
- 9.** The employer therefore agrees to put an action plan in place ,in consultation with its employees and the relevant union/s, within X months of the coming in to effect of this agreement which is designed to:
  - 9.1. eliminate gender inequalities that exist in the workplace;
  - 9.2. overcomes gender segregation where it exists;
  - 9.3. eradicate cultures of sexism and misogyny; eradicate homophobia and transphobia;
  - 9.4. promote the benefits of gender equality and workplaces that are inclusive of workers from a range of backgrounds, experiences and identities
  - 9.5. ensure that job design and systems of work do not cause or increase the risk of gendered violence or perpetuate gender inequality
- 10.** The action plan will give specific attention to vulnerable workers including those that are: engaged in service delivery and care based roles; are casual, contract, visa workers or who are otherwise insecurely engaged; identify as LGBTIQ; are Aboriginal or Torres Strait Islander; are migrants or culturally and linguistically diverse or have a disability.

**11.** The action plan will assess and address the risk of exposure to gendered violence:

- 11.1. in the work environment;
- 11.2. the way work is designed and managed; and
- 11.3. in workplace policies and procedures and practices.

## **ASSESSMENT OF ACTION PLAN IMPLEMENTATION**

**12.** Progress on the implementation of this action plan will be a standing item for discussion at the Consultative Committee and the Health and Safety Committee.

## **ALLOCATION OF RESOURCES TO DEAL WITH GV**

**13.** The employer will:

### **Risk assessment**

- 13.1. assess the gendered violence risks in the workplace and will develop a strategy to remove these risks in conjunction with workers and the relevant union/s;

### **Development of guidelines**

- 13.2. develop and publish workplace guidelines on solutions to overcome gendered violence in the workplace, to address gendered violence risks and the incidence of gendered violence in this workplace within X months of the coming in to effect of this agreement. These guidelines will be consistent with this clause and will be produced in consultation with the workers and relevant union/s;

### **Data collection and reporting**

- 13.3. ensure that data, including incident reports, pertaining to gendered violence, are maintained and recorded in order to assist in and identify instances of gendered violence and to review progress towards achieving a gendered violence free workplace. This data will be made available to the consultative committee and health and safety committee. The relevant union/s will also have access to this data on request;

### **GV contact persons**

- 13.4. identify gendered violence contact persons throughout the organisation, in consultation with workers and the relevant union/s. These persons may include managers, team leaders, union contacts and HSRs. All gendered violence

contact persons will receive training on: the operation of this clause; understanding gendered violence as a serious workplace health and safety issue and; how to respond to incidences of gendered violence;

#### **Delegate and HSR training leave**

- 13.5. give paid leave away from work at least annually, for union delegates and HSRs, to attend training, delivered by VTHC or the relevant union/s, on gendered violence at work, how to respond to and prevent it, and the operation of this clause;

#### **Senior leadership training**

- 13.6. facilitate training by the senior leadership team, about the operation of this clause; understanding gendered violence as a serious workplace health and safety issue, and how to achieve gender equality and create workplaces that are inclusive of workers from a range of backgrounds, experiences and identities;

#### **Worker training and inductions**

- 13.7 provide training and information to all workers on the organisation's commitment to eradicating gendered violence from the workplace and the operation of this clause; and
- 13.8 ensure all new workers receive training and information at their induction regarding the organisation's commitment to achieving a workplace free of gendered violence, the expectations of all workers to refrain from behaviours and actions that constitute gendered violence and the operation of this clause.

### **EMPLOYER COMMITMENTS ON THE RESPONSE TO GENDERED VIOLENCE**

#### **NO ADVERSE ACTION**

14. No adverse action will be taken against a worker who reports experiencing or witnessing gendered violence or whose attendance or performance suffers as a result of them experiencing or witnessing gendered violence at work.



## **TREATMENT OF GV RISKS OR REPORT**

- 15.** Any employer action to address gendered violence risks or to respond to reports or incidences of gendered violence will:
- Effectively and efficiently deal with instances of gendered violence without blaming or persecuting the victim; address the behaviors and actions that constitute gendered violence as well as the stereotypes/assumptions, cultures and system of work that foster gendered violence
  - Reinforce that any perpetrator is responsible for their behavior and the choices they make
  - Ensure that reporting and investigative processes are efficient, confidential and do not penalize or cause further harm to employees who have experienced gendered violence
  - Ensure that any investigative processes apply the principles of natural justice and procedural fairness and do not penalize or cause further harm to employees who have experienced gendered violence
  - Allow any worker involved in any instances of gendered violence (including victim/ survivor, witness or perpetrator) to have access to a representative of their choosing in any process associated with these instances
  - Not excuse the perpetrators violent behavior or down play the significance and seriousness of the perpetrators inappropriate actions
  - A worker, or group of workers, who experience or witness gendered violence may, if they choose, raise this issue as a dispute in accordance with clause X of this agreement

## **SUPPORT FOR WORKERS WHO EXPERIENCE GENDERED VIOLENCE**

- 16.** The employer will:
- Access to support and counseling**
- 16.1. ensure those who experience or witness gendered violence at work receive appropriate support and access to appropriately qualified counselling and other support services. Support includes access to a representative to assist in this process and paid time to deal with the impact of gendered violence;
  - 16.2. provide access to support services to those who perpetrate gendered violence in order to assist them to change their behavior.; and
  - 16.3. make information regarding counseling and support services readily available throughout the workplace.

### **OPERATION OF THIS CLAUSE**

- 17.** Policies and procedures within the workplace shall be reviewed to ensure they are consistent with the

### **PROVISIONS OF THIS CLAUSE**

- 18.** Nothing in this clause overrides any obligation the employer may have with respect to other clauses within this

### **AGREEMENT OR UNDER ANY ACT OR REGULATION**

- 19.** Nothing in this clause overrides any rights a worker may have with respect to other clauses within this agreement or under any Act or Regulation



C H A P T E R S I X

# **FURTHER INFORMATION**







# LGBTIQA+ Resources Victoria

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## STATEWIDE

### LGBTI Taskforce

The Victorian LGBTI Taskforce advises the Victorian Government on LGBTI issues to support equality through legislation reform, new policies and programs.

<https://www.vic.gov.au/lgbti-taskforce>

### Switchboard & QLife

Switchboard provides a free telephone and web peer-based counselling, information and referral service for the lesbian, gay, bisexual, transgender, intersex, queer, asexual (LGBTIQA+) community and their allies, friends and families.

Call: 1800 184 527

QLife chat (3pm – midnight): <https://qlife.org.au/>

Switchboard <http://www.switchboard.org.au>

### Queerspace

<https://www.queerspace.org.au/>

Queerspace provides a safe and supportive space to obtain information and access services aimed at improving the health and well-being of LGBTIQ+ communities.

### Victorian Equality Department

The Victorian State Government Department that funds this area of work.

<https://www.vic.gov.au/lgbti-equality>

### W|Respect

<https://www.queerspace.org.au/our-programs/wrespect/>

- LGBTIQ+ people who are, may be, or at risk of experiencing family violence or intimate partner violence and;
- LGBTIQ+ people who are, think they may be, or at risk of using violence against a family member/s or partner.

### Zoe Belle Gender Centre

An online service supporting the health and wellbeing of Victoria's sexuality and gender-diverse community, with information available to anyone in Australia. The ZBGC also provides an online Q&A service for people seeking answers to their questions about sexuality and gender diversity.

Website: [zbgc.com.au](http://zbgc.com.au)

## REGIONAL AND RURAL VICTORIA

### The Diversity Project

Greater City of Shepparton

The Diversity Project aims to create a safer, more inclusive and healthier community in the City of Greater Shepparton and beyond for young people who are LGBTIQA+. The Diversity Project is an early intervention and prevention program focusing on LGBTIQA+ young people at risk of or experiencing social and emotional well-being issues.

Phone: 1800 002 992

Website: <https://www.unitingkildonan.org.au/programs-and-services/child-youth-and-family-support/diversity-project/>

### WayOut

Macedon Ranges & Wodonga

WayOut is a state wide suicide prevention program that targets same sex attracted, bisexual and transgender young people in rural Victoria. WayOut aims to raise awareness about the needs of same sex attracted and gender diverse (SSAGD) young people and the nature and effects of discrimination in regional, remote and rural communities. WayOut's mode of operation focuses on health promotion, community capacity building and development, youth participation, leadership and design. The model involves young people forming partnerships to implement change in their local communities.

Open: Monday – Friday 9am – 5pm

Wodonga:

(02) 6022 8888

<https://gatewayhealth.org.au/services/wayout-wodonga>

Macedon Ranges:

(03) 5421 1666

<https://www.cobaw.org.au/services-a-z/young-people/wayout>

## RAINBOW UNION NETWORKS

### Union Pride (Victorian Trades Hall Council)

The Victorian Trades Hall Council is the peak union body within Victoria and aims to advocate for working people in Victoria. Union Pride works out of the Victorian Trades Hall Council and acknowledges that the challenges facing LGBTIQ+ people at work today remains significant. It is critical that LGBTIQ+ workers have both knowledge and confidence to stand up for their right to work in a safe, supportive environment. Workplaces are also a space to build resilience as a supportive workplace leads to greater financial security and also better mental health outcomes. Union Pride is keenly aware of these challenges and now continues to fight for the rights of LGBTIQ+ workers in Victoria.

Website: <https://www.unionpride.org.au>

Phone: (03) 9659 3511

Email: [jmattar@vthc.org.au](mailto:jmattar@vthc.org.au)

### Rainbow HACSU

HACSU prides itself on being a progressive union that supports its members to advocate on a wide range of issues, including the fight for equality and safety for members of the LGBTIQ community. Rainbow HACSU is a collective of HACSU members who support equality for the LGBTIQ community. HACSU members who identify as LGBTIQ and allies can join.

Website: <https://hacsu.asn.au/Rainbow-HACSU~11703>

Phone: 03 9340 4100

### FSU Pride

Email: [nabmembers@fsuunion.org.au](mailto:nabmembers@fsuunion.org.au)

### AEU Rainbow Network

The AEU Rainbow Network was formed with the aim of making our schools and workplaces more inclusive for LGBTIQ staff and students.

Phone: (02) 6272 7900

Website: <https://www.aeuact.org.au/get-involved/our-networks/rainbow-network>

### GLAM ASU (Vic Tas)

GLAM is the official caucus of the ASU for LGBTIQ members. GLAM members are in every state and territory and in each Branch of the ASU. Some Branches have identified LGBTIQ contacts for the Branch and others have groups of LGBTIQ members who meet regularly.

Phone: 1300 855 570

Email: [info@asuvictas.com.au](mailto:info@asuvictas.com.au)

### QUTE NTEU

QUTE is a network of members and staff of the NTEU who are actively engaged in addressing the issues facing workers of diverse sexual orientation, gender identity and expression and sex characteristics in the higher education industry and within the Union.

Email: [dwillis@nteu.org.au](mailto:dwillis@nteu.org.au)

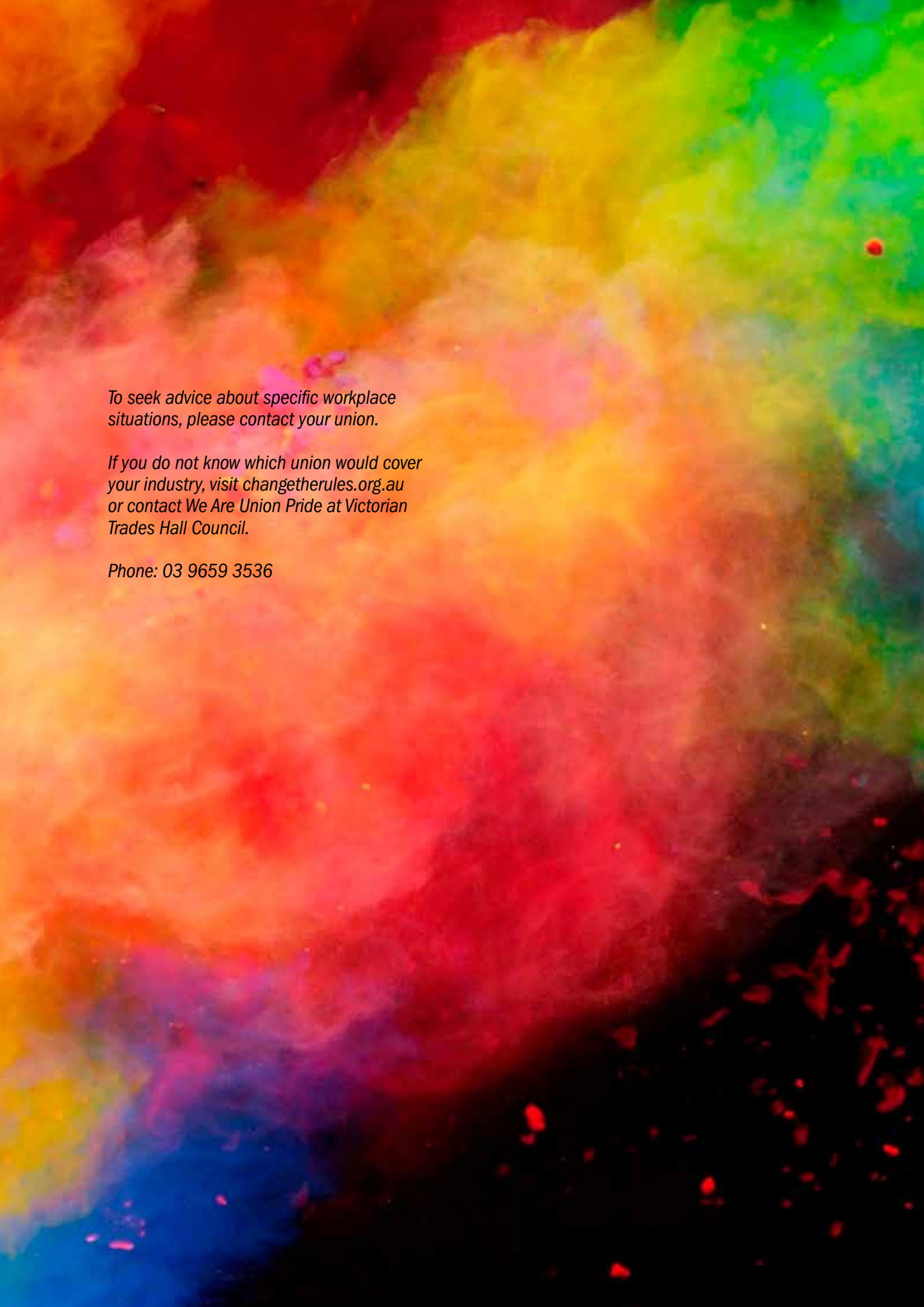
Website: <https://www.nteu.org.au/qute>

### CPSU/CSA

As a union we are firmly committed to playing our part in achieving equality.

CSA Rainbow aims to support all LGBTIQ members in the workplace and beyond. All CSA Rainbow members are encouraged to join, share, organise and post on our Facebook page and get involved at meetings and events.

Website: <https://www.cpsucsa.org/groups/csarainbow>



*To seek advice about specific workplace situations, please contact your union.*

*If you do not know which union would cover your industry, visit [changetherules.org.au](http://changetherules.org.au) or contact We Are Union Pride at Victorian Trades Hall Council.*

*Phone: 03 9659 3536*