National LGBTI Health Alliance
lesbian, gay, bisexual, transgender, intersex and other
sexuality, sex and gender diverse people and communities
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Schedule 3 – Implementation of intersex, trans and gender diversity inclusion

3.1 Intersex, trans and gender diversity non-discrimination requirement

Schedule 3 is designed to ensure that this Agreement is compliant with the intent of the Commonwealth Sex Discrimination Act (Sexual Orientation, Gender Identity and Intersex Status) 2013.

The Act defines *gender identity* as the gender-related identity, appearance or mannerisms or other gender-related characteristics of a person. This includes the way people express or present their gender and recognises that a person may not identify as a woman or a man.

The Act defines *intersex status* as the status of having 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. Being intersex is about biological variations, not about gender identity.

The Act prohibits:

Direct discrimination, which involves treating a person less favourably than a person with a different gender identity or intersex status in the same or similar circumstances;

AND

Indirect discrimination, which occurs when there is a requirement or practice that is the same for everyone but has an unfair effect on people of a particular gender identity or intersex status.

The Act applies to federally funded LGBTI aged care awareness training delivered under this Agreement.

In line with the spirit of the Act, [INSERT NAME OF TRAINING ORGANISATION] will ensure that all activities undertaken and documents produced under this Agreement shall be fully and equitably inclusive of intersex people, trans people (i.e., people whose assigned 'sex' category is not typically associated with how they identify their gender); and gender diverse people (i.e., people who do not identify as women or men or as trans).

3.2 Intersex, trans and gender diversity inclusion guidelines

To assist with the implementation of item 3.1 under this Agreement, the Alliance has provided the following set of inclusion guidelines. The Alliance recognises that some of these guidelines may be unfamiliar or may differ from common practice in the LGBTI sector, where the implementation of intersex, trans and gender diverse inclusion may be inconsistent. These guidelines are based on previous feedback from the Alliance's Intersex, Trans and Gender Diversity Working Group and other relevant stakeholders.

To implement item 3.1, all activities undertaken and documents produced under this Agreement shall adhere to the following guidelines for inclusive and respectful content:

3.2.1 Descriptors

Do: Use intersex, trans and gender diverse as adjectives when appropriate (e.g., 'an intersex person'; 'a gender diverse person'). Describe intersex 'variations' or 'characteristics'.

Avoid: Using intersex, trans and gender diverse as nouns (e.g., 'an intersex' or 'transgenders'); pathologising language (e.g., 'disorders of sex development' or 'intersex conditions' about intersex people; 'gender identity disorder').

3.2.2 Intersex visibility

Do: Use 'intersex, trans and gender diverse', 'intersex, trans and gender diversity' or 'intersex people'.

Avoid: Phrases 'sex and gender diverse' (SGD), 'diverse sexes and genders' (DSG) and 'sex diverse'.

Explanation: The Alliance shifted to using Intersex, Trans and Gender Diversity instead of 'Diverse Sexes and Genders' (DSG) because members of media, government and the public used DSG terminology to describe trans people only. Using the word intersex ensures more consistent intersex inclusion.

3.2.3 Sexes and genders

Do: Distinguish between sex (physical characteristics) and gender (social identity). When describing people's genders, specify which genders are included (e.g., 'women and men', 'women and sistergirls' or 'women, men and people with non-binary genders ').

Describe couples and relationships as 'same-gender' or 'mixed gender'; describe people as 'the same gender' or 'another gender' from others, or simply as the gender with which they identify.

Avoid: General use of the following terms:

- as 'Both sexes'
- 'Both genders'
- 'Same sex' and 'opposite sex' (for couples and relationships)
- 'The same sex' or 'the opposite sex'

EXCEPT when using the term 'same sex' to discuss problems faced by couples in which one or more partners is intersex, trans or gender diverse.

Explanation: The terms 'both sexes' and 'both genders' imply that there are only two valid sexes and only two valid genders, respectively. Terminology should acknowledge gender diverse people who do not identify as women or men, and intersex people whose physical characteristics are not strictly female or male.

Although the phrase 'same-sex' is in common usage in the LGBTI sector, such language is considered exclusionary and misgendering by many trans and intersex people and by some legal experts. This is because many intersex and trans people are have a 'sex' listed on their birth certificate that is not typically associated with their gender identity. For example, two women in a same-gender relationship may not be classified as a 'same-sex' couple if one partner is a trans woman who is listed as 'male' on her birth certificate.

In addition, women and men are not opposites, and such language has been critiqued as sexist. The term, 'opposite sexes' can also exclude intersex, trans and gender diverse people.

3.2.4 Misgendering

Do: Always honour an individual's choice of descriptor(s) and term(s) (e.g., 'woman' and 'she' for someone who identifies as a woman; 'person' and 'they' for someone who identifies as not being either a woman or a man). Follow the above guidelines EXCEPT when other terminology is requested by and for a specific individual.

Where biological descriptions are necessary, qualify that 'sex' terms reflect assigned administrative categories rather than 'who people are'.

> For example use: 'man who was assigned as female', 'intersex woman who (un/willingly) had surgery/hormone procedures to 'assign' her as 'male'', 'man who was assigned as female'. Use as appropriate to reflect how someone identifies themselves.

Avoid: Using biological language instead of gender terms (e.g., 'female-to-male', 'natal female', 'intersex male', 'biologically male', 'a female-to-male transsexual', 'MTF', or 'biologically female man').

Explanation: Many intersex and trans people self-identify as women or men, regardless of their biological 'sex' classification. In addition, many trans and gender diverse people consider their bodies to be female or male, despite having a different assigned 'sex' category. For example, a man assigned on his birth certificate as 'female' might identify as biologically male, regardless of his physical characteristics or history of medical intervention.

3.2.5 Not assuming 'identity' or uniformity

Do: Describe 'being trans', 'being intersex', 'having an intersex status', or 'having a trans experience'. When speaking about 'LGBTI people', ensure that your content is relevant to all letters being used.

Avoid: Assuming that intersex and trans are identities (e.g., using 'people with a trans identity' to describe trans people in general or 'people who identify as intersex' to describe intersex people in general); using phrases such as '*identifying as* an LGBTI person' as synonymous with *being* trans or intersex. Avoid using 'LGBTI' when you actually mean L, G or B only.

Explanation: Many intersex people identify simply as women or men. Intersex is about physical characteristics, not identity. Similarly, many trans people identify simply as women or men, and do not consider trans to be their identity. Therefore, talking about people with a 'trans identity' excludes many trans people.

3.2.6 Recognition of heterosexual intersex and trans people

Avoid: Depicting 'LGBTI' in contrast to 'heterosexual' or 'straight'; treating 'LGBTI' as synonymous with 'queer' or with 'sexuality' or 'sexual orientation'.

Explanation: Many intersex and trans people live as and identify as heterosexual or straight, and should not be presumed to be LGB or collectively labelled as 'queer'.

3.2.7 Equitable content relevant to gender identity and intersex status

Do: Ensure that examples used and activities conducted include equivalent content directly relevant to intersex people, to trans people, and to gender diverse people. Make allowances for the added time needed for audiences to understand intersex, trans and gender diverse materials, which many may find challenging.

Examples:

a) When conducting an activity that asks participants to imagine they are LGB, include equivalent activities in which participants imagine they are intersex, trans and gender diverse.

b) When asking questions about sexual orientation, include a good weighting to questions about intersex status and gender identity.

c) When discussing content focused on sexuality (e.g., 'heterosexism', 'homophobia' or 'coming out', also discuss equivalent concepts that focus on the specific experiences of intersex, trans and gender diverse people as distinct from LGB people (e.g., 'transphobia', 'intersex exclusion', 'misgendering', 'pathologising', 'cisgenderism', or 'gender affirmation', etc.).

Avoid: Tokenism, such as having only one intersex, trans or gender diverse question in a list of ten questions about 'LGBTI' people's experiences.

Explanation: Content focused on 'coming out' does not adequately encompass the processes of gender affirmation for trans and gender diverse people (e.g. many people do not 'come out' as trans; instead, many begin living as the gender they understand themselves to be and do not consider it helpful to disclose their medical or gender history). The experience of discovering one is intersex, typically after parents and doctors, is also distinct from the LGB concept of 'coming out'. Intersex is neither a gender nor a sexuality, and is not adequately included by reference to either.

Training that merely adds the 'T' and 'I' without addressing these conceptual content issues is unlikely to achieve genuine inclusion.