



## Tracking Your Rights: Lesbian, Gay, Bi-sexual, Transgender and Intersex People

The *International Covenant on Civil and Political Rights* states:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground... (Article 26)

### What does the *Anti-Discrimination Act 1991* say about LGBTI people?

The Act says that it is unlawful to discriminate against a person because of their actual or presumed sexuality, gender identity or intersex status, in public life. Public life includes when you are: at work, school or educational institution, obtaining goods or services, buying or selling real estate, renting premises, obtaining membership of clubs or dealing with state or local government. It is also unlawful to vilify someone because of their sexuality or gender identity.

Sexuality means whether a person is hetero-sexual, homosexual or bisexual. Gender identity means that a person identifies as a member of the opposite sex to which they were born, and live (or seek to live) as a member of that sex. Intersex means that a person is born of indeterminate sex and seeks to live as a member of a particular sex.

### What is discrimination?

Direct discrimination happens when you are treated worse than someone else because of your: race, age, family responsibilities, parental status, relationship status (including same sex defacto partners), pregnancy, breast-feeding, impairment (a disability), religious belief or activity, sex (male/female), **gender identity, sexuality**, lawful sexual activity (as a sex worker), trade union activity, political belief or activity, or association with, or relation to, a person identified on the basis of any of the above attributes.

### Sexuality discrimination in health insurance:

Kelly lives in a stable relationship with her same sex partner Di. Di has a child from a marriage, but has been divorced for some time. Kelly applies to convert her 'singles' health insurance to a family package, but is refused because the insurers do not recognise same sex de facto relationships. Kelly has been discriminated against in the insurance area because of her sexuality.

### Gender identity in pre employment:

Pat is a post operative transgender woman seeking work through an employment agency. She is well qualified and has relevant experience. When she had no calls from the agency about possible placements she was concerned. She found out that the agency had not put her name forward to any clients. When queried, the agency said to Pat that their clients would want a 'real woman'.

### Sexuality discrimination in education:

Tom, who attends the local high school, is gay. The school formal is coming up, and he would like to invite his male partner to attend. The teacher organising the function has told him he is not allowed to bring his partner, and he must only invite a girl to the formal.

### What is vilification?

Vilification is publicly inciting others to hate, have serious contempt for, or severely ridicule people because of their race, religion, **sexuality** or **gender identity**. Vilification is unlawful. If the incitement involves threats of physical harm to people or their property, it is a criminal offence.

### Gender identity vilification:

Bobbi is a 'sister girl'. One day she was sitting in the mall, having a break while shopping and was approached by one member of a group. The person verbally abused and taunted her because of her transgender status. When she didn't respond he encouraged his friends to join in the ridicule and harassment, and threatened to beat her up.

Vilification complaints can be made to the ADCQ by the person vilified. The Act also allows a body whose primary purpose is to promote the interests or welfare of people of a particular race, religion, **sexuality** or **gender identity** to make a complaint. The ADCQ must be satisfied that the complaint is made in good faith, that the vilification is likely to effect the persons whose interests the organisation promotes and that it is in the interest of justice to accept the complaint.



## Sexual Harassment

Sexual harassment is unwelcome sexual behaviour directed at you, which makes you feel offended, humiliated or intimidated, and in the circumstances, it is reasonable to feel that way. Both men and women can sexually harass and be harassed. It has nothing to do with mutual attraction and friendship between people.

Tim works at a steel works. One of his co-workers often asked personal questions about his sexual preference and sex life. In the lunch room he suggested that Tim frequented gay bars, 'often had sex with little boys' and implied that he is a paedophile. Tim is being subjected to sexual harassment.

## Other important/useful information

The Act allows exemptions in some situations which could otherwise be discrimination. Here are some that apply to the LGBTI community.

### *Genuine occupational requirement*

A religious body can discriminate on the basis of sexuality or gender identity in a way that is not unreasonable when it employs people

- in work which **genuinely and necessarily** involves adhering to and communicating the body's religious beliefs OR
- in work for an educational institution if a person **openly acts** contrary to those beliefs AND to act consistently with those beliefs is a genuine occupational requirement.

### *Work with children*

It is not unlawful to discriminate on the basis of gender identity if the discrimination is reasonably necessary to protect the physical, psychological or emotional well-being of children.

### *Assisted reproductive technology*

It is not unlawful to discriminate on the basis of sexuality in providing assisted reproductive technology services (IVF).

### *Sport restriction*

Competitive sporting activity may be restricted on the basis of gender identity, where reasonable, having regard to strength, stamina or physical requirements.

## Contact the ADCQ for more information

- phone on 1300 130 670 (or TTY 1300 130 680) from anywhere in Queensland and your call will be taken by the closest office
- ADCQ has Aboriginal and Torres Strait Islander staff and you can ask to speak with one of these officers.
- send an email to [info@adcq.qld.gov.au](mailto:info@adcq.qld.gov.au)
- visit the website [www.adcq.qld.gov.au](http://www.adcq.qld.gov.au)

## ADCQ offices are located at:

Brisbane – level 17, 53 Albert St, Brisbane City  
Rockhampton – level 1 James Larcombe Place, 209 Bolsover Street  
Townsville – 155 to 157 Denham Street  
Cairns – McLeod Chambers, 78 Spence Street

## Other agencies

Gay and Lesbian Welfare Association  
[www.glwa.org.au](http://www.glwa.org.au)  
07 3017 1717 or 1800 184527 (outside Brisbane)

Legal Aid Queensland  
[www.legalaid.qld.gov.au](http://www.legalaid.qld.gov.au)  
1300 651 188 (General)  
1300 650 143 (Indigenous Hotline)

Aboriginal & Torres Strait Islander Legal Service (Old Ltd) <http://atsils.com.au/default.asp>  
1800 012 255  
See *Contact us* page for contacts outside metropolitan area

Open Doors  
[www.opendoors.net.au](http://www.opendoors.net.au)  
07 3257 7660  
3 Julia Street Fortitude Valley

Parents and Families of Lesbians and Gays (PFLAG)  
[www.pflagbrisbane.org.au](http://www.pflagbrisbane.org.au)  
07 3017 1739 | 0400 767832

Queensland Association for Healthy Communities  
<http://www.qahc.org.au/>  
1800 155 141