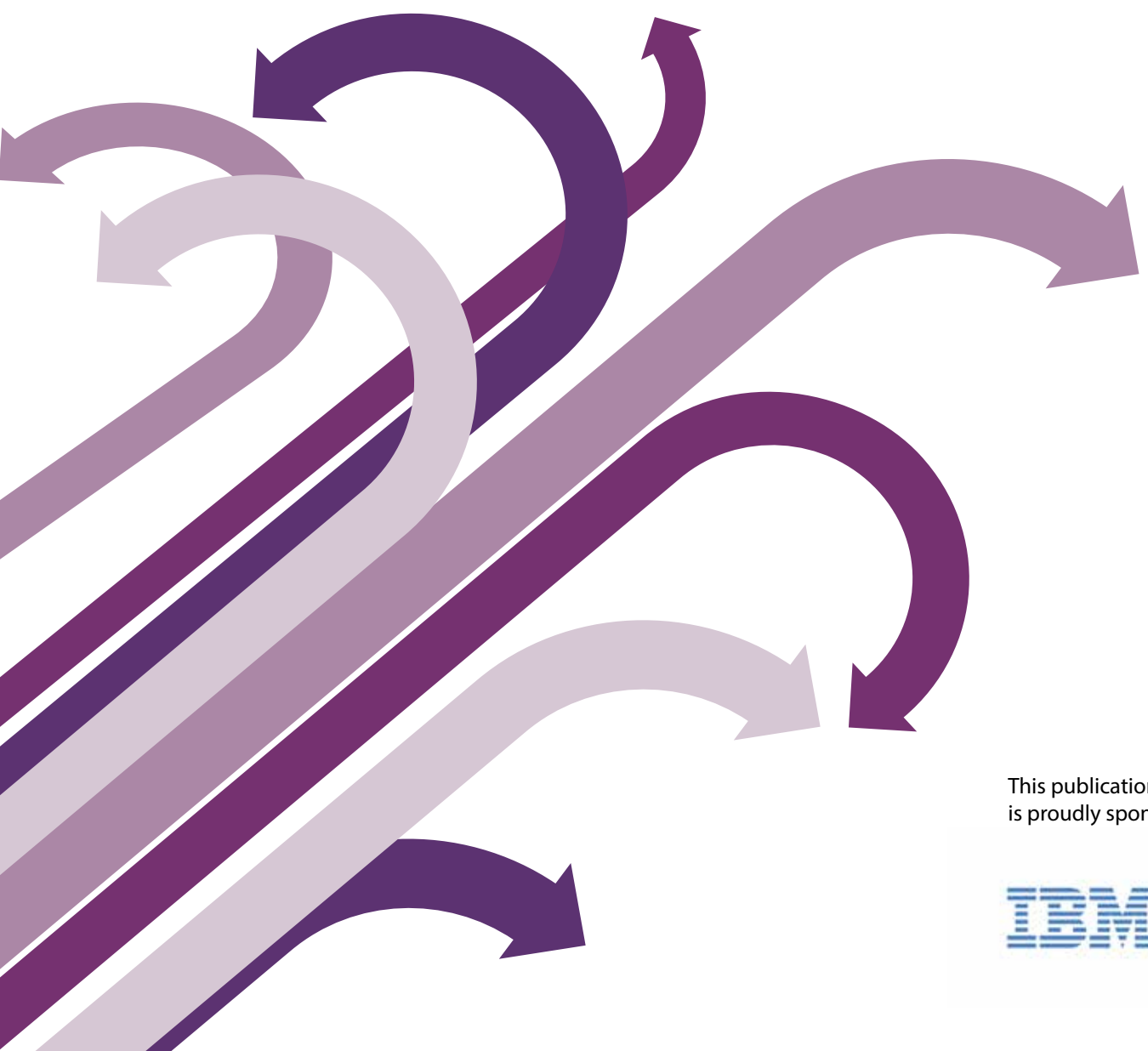


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# EMPLOYERS' GUIDE TO INTERSEX INCLUSION



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THIS PUBLICATION MADE POSSIBLE THROUGH THE SUPPORT OF IBM.



### About this Guide

Making your business intersex-friendly is different to supporting same-sex attracted, transgender or gender diverse people. It means changing your language and frame of reference.

This guide for employers, business managers, Diversity and HR Professionals aims to introduce intersex and provide practical assistance to help build intersex inclusive practice. It is mostly aimed at employment practice, but much of the material will also help build inclusive service delivery.

This guide references 'LGBTI', this is an acronym that brings lesbian, gay, bisexual, transgender and intersex communities together as a human rights movement, it should be noted that not all people with intersex variations identify with this.

### Acknowledgements

This employer guide was written by Morgan Carpenter for Organisation Intersex International Australia Limited (OII Australia) and Dawn Hough for Pride in Diversity.

This guide uses resources on intersex issues developed by Morgan Carpenter. Draft versions were reviewed by Tony Briffa, Bonnie Hart, Chris Somers xxy, Karin Gottschalk and Candice Cody. Teddy Cook assisted with the development of related resources on service delivery.

The workplace diversity relevant content was written by Dawn Hough, Pride in Diversity.

The introduction to intersex draws elements from materials initially developed by Emi Koyama, and Hida Viloria and Claudia Astorino. The parenting information draws upon original work by Hida Viloria and Claudia Astorino of OII-USA.

Pride in Diversity and OII Australia acknowledge the traditional owners of country throughout Australia, their diversity, histories and knowledge and their continuing connections to land and community. We pay our respects to all Australian Indigenous peoples and their cultures, and to elders of past, present and future generations.

Pride in Diversity and OII Australia acknowledge the impact of intersectionalities on the intersex and LGBT movements, and the contributions in Australia of community elders, LGBTI, women and non-binary people, migrants, and cultural and linguistic minorities.

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DAWN HOUGH  
DIRECTOR, PRIDE IN DIVERSITY



It gives me great pleasure to release our 2014 Pride in Diversity publication on a very important, little understood aspect of LGBTI workplace inclusion: Intersex inclusion.

This publication has been specifically written for those working in HR, Diversity and Network Leadership roles but will have a much broader reach in terms of educating people more generally on some of the shared (LGBTI) and unique workplaces experiences of our intersex employees. It will also set the context for hesitation in terms of intersex participation within broader diversity initiatives in addition to answering some of the commonly asked questions around the collection of workplace demographic data.

This publication is a world first and as a result will be distributed widely by OII Australia and Pride in Diversity to partners across the globe. This public document will be used extensively to build awareness more generally while providing employers with a comprehensive resource that endeavours to provide clear examples and advice as to what constitutes best practice beyond the implementation of traditional LGBT focussed initiatives.

There is an opportunity to lead the way in this aspect of LGBTI workplace inclusion globally. We need to be advocates and allies for our intersex employees and colleagues. I challenge and encourage you to be a leader in this area, both personally and organisationally. This publication has been written to instigate change. Change requires action. Here is an opportunity to be at the forefront of LGBTI inclusion and make a real difference to the lived experience of intersex employees within our organisations and beyond.

I would like to thank Morgan Carpenter from OII Australia who has written the technical and intersex-specific content of this publication, and the Pride in Diversity member organisations that have provided some of the testimonials and questions to be answered. I would also like to thank IBM, who for the fourth consecutive year, have sponsored the development and distribution of our annual publication without whose support this would not be possible.

Dawn Hough  
Director  
Pride in Diversity

## MORGAN CARPENTER PRESIDENT, OII AUSTRALIA



If you pass an intersex person in the street, you probably won't notice. You probably won't know if you employ an intersex person, or work alongside one. Even so, social and cultural attitudes towards intersex will have had a huge impact on our lives at work and outside it.

Intersex status appeared as a new attribute in Commonwealth anti-discrimination law in 2013, yet employer and community understanding of intersex remains limited. This guide is here to help.

People with intersex variations face a range of health and human rights issues. On the one hand these include deep-seated stigma, and medical interventions explicitly intended to make our bodies conform to social norms for a specific sex or gender. On the other hand, some people have the expectations that intersex people will openly challenge or transgress gender norms; our reality can disappoint. The Greek historian Diodorus Siculus wrote of hermaphroditus as both "gods" and "monsters", in the first century BC. These weighty and contradictory social expectations affect our public visibility.

OII Australia is delighted to partner with Pride in Diversity and welcome you to this guide to intersex and intersex issues for employers. We understand that it's the first employment-focused guide on intersex produced anywhere in the world. I hope that it will make a difference to intersex people who are employed by your organisation, and those who are clients or customers of your business.

This guide hopes to change social attitudes in the workplace, and enable more intersex people to just be ourselves, as we are. In the words of an international intersex community consensus statement, we hope that it will help create supportive, safe and celebratory workplaces<sup>1</sup>.

Morgan Carpenter,  
President  
OII Australia

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<sup>1</sup> See <http://oii.org.au/24241/public-statement-by-the-third-international-intersex-forum/>

**ROB LEE**  
**EXECUTIVE SPONSOR LGBTI**  
**IBM AUSTRALIA / NEW ZEALAND**



As long-standing member of Pride in Diversity, IBM is proud to sponsor this publication on the topic of intersex inclusion. This is a world-first publication and its purpose is to help educate, inform and raise awareness on the topic of intersex, while addressing common myths and misconceptions.

The importance of inclusive workplace practices is something IBM understands well. With inclusive policies as a cornerstone of our business strategy for 30 years, our commitment to workplace equality and inclusion has helped us foster a vibrant and growing LGBTI community, whose creativity, intelligence and diversity of thought continue to help drive our business success.

We hope this publication will assist companies in raising greater awareness and inclusion within Australian workplaces and create an environment where all employees feel valued, are empowered to think freely and to fully be themselves.

Rob Lee  
Executive Sponsor LGBTI Australia / New Zealand  
Managing Director IBM New Zealand

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# INTRODUCTION TO INTERSEX

*In this section we discuss intersex. We will look at what it means to be intersex, and the relationship between intersex and health, human rights and LGBT communities.*



It's important to me that I am open about who and what I am. Being intersex doesn't define me, but it is a part of who I am and I have not hidden that throughout my career as a senior public servant with the Department of Defence and the Australian Federal Police, or in my role as Councillor and Mayor in the City of Hobsons Bay, Melbourne.

Being open about being intersex has its challenges but I am pleased I have been accepted by most of my colleagues and the community I've served. I hope this resource helps raise awareness about intersex people and helps workplaces become more inclusive of the beautiful, natural diversity that exists within humanity.

Tony Briffa JP  
Former Mayor, City of Hobsons Bay, Melbourne  
Bail Justice, Justice of the Peace, Aviation Consultant  
Vice-President, Organisation Intersex International Australia  
Vice-President, AIS Support Group Australia



## WHAT IS INTERSEX?

Intersex is a term that relates to a broad range of congenital physical traits or variations that lie between stereotypical ideals of male and female. 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.

Many forms of intersex exist; it is a spectrum or umbrella term, rather than a single category. At least 30 or 40 different variations are known to science.

The genetic basis for every intersex variation is not known or well understood. Intersex also includes a range of developmental differences due to environmental factors.

Some common intersex variations are diagnosed prenatally. Intersex differences may be apparent at birth. Some intersex traits become apparent at puberty, or when trying to conceive, or through random chance.

## HOW COMMON ARE INTERSEX PEOPLE?

The lowest popular statistic is around 1 in 2,000 people (.05% of births). A great range in physical impacts and low rates of diagnosis for some variations mean that a more likely figure may be closer to 1.7%. This makes intersex differences about as common as red hair.

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.

There are many different intersex variations all congenital (present at birth).

They can include differences in the number of sex chromosomes, such as 47,XXY (also known as Klinefelter Syndrome), X0 (Turner Syndrome) and sex chromosome mosaicism.

It includes different tissue responses to sex hormones, such as Androgen Insensitivity Syndrome (AIS). AIS includes Complete Androgen Insensitivity Syndrome (CAIS), and Partial Androgen Insensitivity Syndrome (PAIS).

It also includes differences in prenatal hormone balances, such as in 5 alpha Reductase Deficiency, or Congenital Adrenal Hyperplasia (CAH).

Other variations include Clitoromegaly, Cloacal Exstrophy, Gonadal Dysgenesis, Müllerian Agenesis (also known as Mayer Rokitansky-Küster-Hauser Syndrome, MRKH), Micropenis, Ovotestes, and complex Hypospadias.

Some more contentious terms include pseudo-hermaphroditism, true-hermaphroditism, and disorders of sex development or DSD (sometimes written as differences of sex development).

## ARE INTERSEX AND HERMAPHRODITE THE SAME?

The term hermaphrodite can be misleading. In biology, hermaphrodites such as snails, some fish and plants, possess fully functioning fertile sets of both “male” and “female” sex organs. This is impossible in mammals.

Linguistically, the word hermaphrodite originates in the Greek myth of Hermaphroditus who was both male and female, having elements of both sexes.

Some intersex medical diagnoses have been termed “pseudo-hermaphrodites” or “true-hermaphrodites”. While some intersex people reclaim the term, others find it stigmatising due to this medical history.

The word hermaphrodite is not a slur but, if in doubt, it is best only used by intersex people. The term intersex is recommended: it is more accurate and more widely accepted.

## DO INTERSEX PEOPLE HAVE HEALTH ISSUES?

People with intersex variations, like all people, have health issues. Natural intersex bodies are most often healthy; being intersex is not a health issue in and of itself. In some variations, immediate medical attention is needed from birth for the health of a child, but that is not related to their appearance. Intersex people frequently need hormone replacement, and this is often due to medical intervention.

## WHY ARE INTERSEX PEOPLE SUBJECTED TO MEDICAL INTERVENTION?

Medical intervention attempts to make intersex individuals’ bodies conform to ideals of male or female. Current medical protocols are based on the ideas that infant genital surgery will “minimise family concern and distress” and “mitigate the risks of stigmatisation and gender-identity confusion”<sup>1</sup>. Surgical interventions intrinsically focus on appearance, and not sensation or sexual function. Surgical and hormonal treatments focus on making intersex people “appear” stereotypically normal. It is rare that surgical treatment is necessary to ensure functionality.

Childhood cosmetic genital surgeries are a problem as children cannot consent to them. Adolescents, and even adults, have reported pressure by doctors or families to conform to societal norms. Some doctors still believe that disclosure of a person’s intersex status would be too alarming.

Very many intersex people suffer the physical and emotional effects of surgery, and related shame and secrecy. At a fundamental level, homophobia, intolerance and ancient superstitions underpin contemporary mistreatment of people with intersex differences.

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<sup>1</sup> Houk, Hughes, Ahmed, Lee, Writing Committee for the International Intersex Consensus Conference Participants (2006) Summary of Consensus Statement on Intersex Disorders and Their Management, in *Pediatrics*, doi:10.1542/peds.2006-0737, <http://www.pediatrics.org/cgi/doi/10.1542/peds.2006-0737> accessed 21 November 2012.

## WHAT IS DSD? IS THIS THE SAME AS INTERSEX?

In 2006, a group of doctors replaced the umbrella term intersex with “Disorders of Sex Development” or DSD. The collective term DSD reinforces the idea that intersex traits are individual medical conditions or disorders that need to be fixed.

Today, some intersex people use the label – especially those who were taught the term by their parents or doctors. Intersex people are free to use any label, but the term intersex has become even more accepted and widespread today.

Stigmatising language leads to poor mental health, marginalisation, and exclusion from human rights and social institutions. The term intersex promotes equality and human rights for people born with atypical sex characteristics.

## WHAT GENDER IDENTITIES DO INTERSEX PEOPLE HAVE?

Intersex is a lived experience of the body and intersex people have a broad range of gender identities, just like non-intersex people. The identities of people with intersex variations may sometimes not match their appearance.

Having a gender identity that is not exclusively male or female does not automatically make someone intersex.

## ARE INTERSEX PEOPLE TRANSGENDER OR GENDER DIVERSE?

A minority of intersex people change gender, and some of them may self-identify as transgender or gender diverse. Most intersex people identify in the sex they were raised, but some will not fully identify with their assigned sex. This is part of the intersex experience, but it doesn't make intersex people transgender or gender diverse.

Intersex bodies have diverse physical sex characteristics. Many intersex people have an experience of coercive or involuntary medical treatment to impose stereotypical sex characteristics, or are at risk of this. These factors also make descriptions of intersex people as “cis” or “cisgender” problematic.

## ARE INTERSEX PEOPLE GAY OR LESBIAN, OR QUEER?

It depends on the individual, how they define their gender and identity, how they present, and who they form relationships with. Every intersex person is different. Some intersex people are lesbian, gay, bisexual or queer, and most intersex people are heterosexual. This means that intersex people should not be automatically “queered”.

However, LGBTI activism has fought for the rights of people who fall outside of expected binary sex and gender norms. Intersex is part of LGBTI because of “intersex status”, bodily diversity, and a shared experience of homophobia, not because of “sexual orientation” or “gender identity”.

## WHAT ARE THE GOALS OF THE INTERSEX MOVEMENT?

The goals of the intersex movement are to raise awareness, tell intersex people and the broader community that it is ok to be intersex, and achieve an equal place in society. The movement seeks the right to bodily autonomy, the right to a life without stigma and discrimination, and the right to a life without shame and secrecy.

## WHAT DO INTERSEX PEOPLE NEED FROM EMPLOYERS AND SERVICE PROVIDERS?


Intersex people need clear messages that an employer or service welcomes intersex people, and an awareness that intersex status is about variations of biology, not gender identity or sexual orientation.

Intersex people need to know that confidentiality will be respected. Intersex people need employers and services that understand intersex health and wellbeing concerns and can provide supportive, safe and celebratory environments for people with intersex variations, their families and communities.

This publication contains a number of case studies drawn from members of OII Australia.

# INTERSEX BODIES, IDENTITIES AND LANGUAGE

*In this section we will address intersex identities, body diversity, disclosure, inclusive language and overall organisational support.*



## INTERSEX AND IDENTITIES

There is a common assumption that intersex people have non-binary gender identities, and even a belief that a third sex classification recognises the existence of people with intersex variations.

A minority of intersex people do have non-binary gender identities, and it's important to respect those identities, but it is also important to respect the full diversity of gender identities held by people born with intersex traits, not just identities that meet any preconceived ideas about the nature of intersex differences.

It is very easy to overstate the identity aspects of intersex. Descriptions of intersex and LGBTI identities are widespread but are often misleading: intersex is actually defined in physical, biological terms. It describes a spectrum of diverse physical sex characteristics, not a neat and arbitrary third sex or gender classification.

Some people born intersex will reject binary sex or gender labels, due to medical or social experiences, or simply as a reflection of their embodiment. However, treating intersex as if the word describes a gender identity "misgendering" or "others" the overwhelming majority of intersex people: i.e. it describes their gender wrongly. Most intersex people are comfortable simply being men or women. Sometimes those gender identities are lifelong; sometimes they are hard won.

Treating intersex as if it is a gender identity also derails other more fundamental concerns. Indeed, Emi Koyama and Lisa Weasel have written that discussions about intersex often focus on use of intersex to deconstruct sex, gender and sexuality, rather than addressing priority issues such as medical ethics<sup>1</sup>. The key issues for most intersex people are not the existence of binary sex and gender categories, but what is done to intersex people, to make them conform to narrow stereotypical classifications.

Australia has federal regulations that recognise a third gender classification, X, in Commonwealth documents for people that express an identity other than as male or female. Remember that this choice is open to all people, not just people with intersex variations. People who adopt an X classification are not intersex by virtue of that fact.

Australian passports with an X sex marker have been around since at least 2003, when Alex MacFarlane won the first such passport. They have been more widely available since 2011. An X gender marker doesn't suit everyone with a non-standard identity or body, and OII Australia recommends that people be free to enter multiple options, such as F and M if that suits their needs.

<sup>1</sup> Emi Koyama and Lisa Weasel (June 2001) Teaching Intersex Issues, <http://isna.org/pdf/teaching-intersex-web.pdf>

## INTERSEX AND LGBT COMMUNITIES

Intersex people so far have a semi-detached relationship with LGBT communities. Most people with intersex variations are heterosexual and not transgender, so commonalities with LGBT people are not about sexual orientation or gender identity. This means that intersex people should not be automatically "queered".

In some parts of the world, adding an "I" to LGBT comes with significant risks: in parts of the world like much of Africa, intersex may be stigmatised as a form of witchcraft, and activists work to prevent infanticide and help reduce the stigmatisation of families with intersex children. Adding issues around the criminalisation of homosexuality can damage that work.

In some other parts of the world, intersex has sometimes been seen as part of the "T", or a logical next step after adding the "T" to LGBT. Sometimes intersex activists have been driven to engage with LGBT activism because of the misconceptions and limitations that come from regarding intersex as a gender recognition issue. In some countries and regions, the drive to add "I" to LGBT is actually driven by governments and institutions, and not local communities.

In Australia and much of the world, adding an "I" makes clear sense in work around human rights, diversity, and healthcare. Like LGBT people, intersex people experience stigmatisation and discrimination because they fall outside of expected binary sex and gender norms. Intersex is part of LGBTI because of bodily diversity and intersex status, and a shared experience of homophobia, not because of sexual orientation or gender identity.

Assumptions that LGBTI is about who LGBTI people form relationships with are unhelpful not only to intersex folk, but also to trans and many bisexual people. This can happen when people frame LGBTI as the opposite of being heterosexual. Many LGBTI people are heterosexual or in heterosexual relationships – but still suffer stigmatisation.

### What does this mean for employers?

We hope that you will add intersex to workplace diversity initiatives, and develop inclusive service delivery. This needs to be based on a clear understanding of intersex as a form of body diversity and life experience. Intersex is related to other experiences of exclusion on grounds of sex and gender nonconformity, but distinct from it. Inclusion means changing your language and frame of reference. Adding an "I" means shifting from consideration of issues of sexual orientation and gender identity to also include issues of bodily diversity and intersex status.

## WHERE ARE INTERSEX PEOPLE? THEY'RE NOT "OUT"?

Intersex people face a range of health and human rights issues. These include deep-seated stigma, superstition, and medical interventions in infancy and childhood that are explicitly intended to make intersex bodies conform to social norms for a specific sex or gender. In recent times, people with intersex variations also face social expectations to identify as a third gender or sex, to challenge or transgress gender norms. These factors each inhibit disclosure.

The diversity and rarity of intersex bodies mean that many intersex adults have experiences of unwanted disclosure and questioning, including unnecessary display to clinicians, and even medical photography. Many intersex people have never met another intersex person, let alone someone with the same variation. The internet has enabled a community to establish itself, largely independent of LGBT communities, but isolation and secrecy are still the reality for very many people with intersex differences. Intersex people are often survivors of trauma <sup>1</sup>.

It is important, too, to recognise that intersex people are capable of high levels of achievement, in work, sport and home lives. Some intersex variations are more common amongst elite women athletes than the general population. Such traits don't confer a winning advantage, yet these particular genetic differences are singled out for investigation and treatment, while other genetic differences are not<sup>2</sup>. Many athletes have suffered public humiliation and surgical interventions as a result.

Intersex people are capable of growing up well adjusted to their bodies and society, including where surgical and hormonal interventions were avoided. In Australia, openly intersex people include a city mayor, people with doctorates, teachers, engineers, IT managers, artists and photographers, and more.

## INCLUSION CREATES VISIBILITY

There are no easy answers to questions about the invisibility of intersex people in public life and the workplace. There are many openly intersex people in Australian workplaces, and many are active in Australia's intersex community organisations, OII Australia and the AIS Support Group Australia. Both are volunteer-led and unfunded.

Intersex issues haven't yet achieved near the same visibility as LGB, trans and gender diversity issues. Creating a better understanding of intersex as a form of bodily diversity, talking about intersex, and including "intersex status" in your human resources and diversity policies helps to tackle the invisibility of intersex people. It also helps to create a safer environment where intersex people might feel more comfortable in the workplace, and more encouraged to disclose.

<sup>1</sup> See M Carpenter (29 August 2013) August submission to the Senate Inquiry on the involuntary or coerced sterilisation of people with disabilities, Sydney, Organisation Intersex International Australia. <http://oii.org.au/23387/august-submission-senate-inquiry-sterilisation>

<sup>2</sup> See Organisation Intersex International Australia (22 August 2014) No scientific basis for current policy excluding elite intersex women from sport, <http://oii.org.au/27647/no-scientific-basis-for-current-policy-excluding-elite-intersex-women-from-sport/>

## DISCLOSURE

It is not an intersex person's duty to discuss intersex, nor should people with intersex variations be expected to disclose or discuss their experience. Given that most intersex people are heterosexual and not transgender, they may even be perceived as allies, rather than members of an LGBTI community.

Expectations that people with intersex variations should be public, or need to come out in the workplace or elsewhere may be predicated on an expectation that intersex is just another part of the LGBTI spectrum, and this is often unrealistic.

Intersex is a different experience, primarily an experience of the body. Intersex people typically find out that they have an intersex variation from a doctor or from their parents. This is different to the lesbian, gay or bisexual (LGB) concept of 'coming out' to family and friends. Initially an intersex variation may be perceived as a personal medical experience, rather than a shared community experience of stigma and difference.

Expectations that intersex people should come out and join an LGBTI community are often based on misconceptions about intersex as a trans or gender identity, or a non-binary gender identity. This can itself be stigmatising to people with intersex traits, and act as a barrier to disclosure. It can also lead to "misgendering", or a lack of respect for an intersex person's actual identity and experience; it may undermine an identity as a woman or man, often their lifelong identity.

Remember that intersex people may or may not:

- Appear visibly or audibly different from gender norms.
- Identify as male or female.
- Identify as both, all, between, or neither gender/s.
- Connect with an LGBT or LGBTI community.
- Be post-diagnosis or have experienced medical intervention.
- Be self-accepting.

Respect for diversity means respecting individual characteristics and histories; disclosure of a person's intersex status is a gift.

*Pat, a twenty-something intersex person, said:*

*"I'm very androgynous. People at work had a meeting about me, which I was not invited to - I only know it was about me because I could overhear some of the discussion, which was held down the other end of the office. It seemed the guys who played rugby were uncomfortable with me. My contract wasn't renewed."*

*Diyannah, a fifty-something intersex woman, said:*

*"I was working for a company in another state and the manager heard from one of the staff that there was 'something funny about me'. The manager called me into his office and demanded to know what the 'funny' was. I told him. He demanded that I then stand up in front of all the staff at an all-staff meeting the next morning to apologise for being different."*

*In fact two staff members already knew that I am intersex. One of them was also intersex with an intersex partner and had been treated very badly as a result by a larger business in another state that we had both worked at several years before."*



## BODY DIVERSITY

Intersex people have diverse bodily characteristics. It is unhelpful to assume that people with intersex variations will have obvious differences to gender norms. Often times, intersex differences will not be apparent even unclothed. However, there are many intersex people who do have obviously different characteristics.

Communal bathrooms and change rooms can be a difficult space for some intersex people. Problems in these spaces are often stated as a reason for childhood 'normalising' surgeries and hormone treatment, but surgery does not make someone 'normal', and consequential scarring or trauma can be a significant social barrier.

In accessing personal services, changing rooms, sports and health and facilities, keep in mind that intersex persons may:

- Prefer not to be reminded or asked about their physical differences.
- Want support for, or a service that relates to, their physical differences.
- Want privacy in a changing room.
- Prefer to cover up on the beach or in the swimming pool.
- Need clothes not typically designed or sized for someone of their apparent sex.

It is important to remember that how someone looks today has little or nothing to do with the physical and emotional issues they may have faced as an intersex person. Respect is the key to intersex-friendly practice.

*Jan, a fifty-something intersex woman, said:*

*"My work has been challenging all my life due to looking and sounding different, often being perceived as visibly neither male nor female, or both."*

## DRESS CODES

Consider how you can manage any workplace dress codes to effectively support bodily diversity associated with intersex and other differences. Can you apply the same broad, professional standards regardless of sex or gender? Consideration of these issues may well benefit other staff in the workplace.

*Ajay, an intersex man in his thirties, said:*

*"At one place where I worked, I had a co-worker who was very interested in finding out private details about my body. He was constantly asking questions of other people in the building about what was going on with me. After investigating, he finally confronted me in public in front of several other co-workers. "I know what's up with you!", he said. "You're a hermaphrodite!" I found that word offensive and his behaviour invasive and uncomfortable. When I complained about it to my supervisor, she said that I had to understand that people would have questions and that it was understandable. I went above her head to another supervisor. He was much more helpful and said this intrusive behaviour would not be tolerated. However, the other supervisor was more involved in my daily work and kept letting this kind of behaviour happen.*

*I felt tense and upset walking into the building and very uncomfortable using the men's toilets. There was a thin gap between the door and the cubicle wall. This guy was so abusive and harassing: he would try to peek into the gap, just to see my body parts. I tried to time my toilet breaks for times when he was not around. The supervisor who let it happen didn't see that this was just as unacceptable as when a man sexually harasses a woman. I left that job as soon as I could."*

## INCLUSIVE LANGUAGE

Intersex is an innate form of bodily diversity, not a sexual orientation or gender identity. Including intersex people may mean changing your language and frame of reference. Adding the letter “I” or the word intersex to LGBT doesn't make your policy or marketing inclusive; it can even alienate if the substance of a policy or statement makes assumptions about a homogeneous community, or a set of identities. Material focusing on LGBTI communities or alliances needs to pay attention to the needs of intersex people.

People with intersex variations typically discover their intersex status when told by their parents or doctor. This is a different experience to the lesbian, gay or bisexual concept of ‘coming out’ to family and friends.

Terms to avoid include pathologising language such as ‘disorders of sex development’. The word ‘hermaphrodite’ is also regarded as stigmatising by some intersex people. Use the word ‘intersex’, or refer to intersex traits, variations, differences, bodies, or characteristics.

Instead of asking if clients identify as LGBTI, consider asking if your client is LGBTI, is intersex or has an intersex status.

Many intersex people are heterosexual, and some are same-gender attracted. All need their identities respected, so people with intersex variations should not be presumed to be part of a lesbian, gay or bisexual community or collectively labelled as ‘queer’.

*Anna, an intersex woman in her forties, said:*

*“I had worked at the top end of a creative industry overseas, where I was well accepted for being myself, for being different, by my colleagues there [but] my marriage was breaking up due to [my] being biologically different. When I came back I began having problems finding work in the capital city of another state where I had gone to university and had worked in the creative professions for some years. I was at an advertising event, networking, when a creative director at an agency I had visited and had helped out with a research paper, started casting [aspersions] on my sex, my biological variation, in front of everyone there. I had shared a little of my history with him when I had been working on the paper - he wanted to know about my life overseas and why I had come back to Australia. He seemed trustworthy by then so I told him about my marriage.”*

Being straight or heterosexual is not the opposite of LGBTI so consider using ‘non-LGBTI’ instead.

It is ok to use LGBT when talking about people who are same-sex attracted. It is ok to use LGBT when referring to source material that doesn't include intersex; this is much better than extrapolating intersex inclusion from non-inclusive material, but it is even better to question why the needs of people with intersex differences are not included. It is also ok to focus just on intersex when circumstances merit that.

Some intersex people are transgender or gender diverse, but most are not. All need their identities respected. Avoid making assumptions that intersex people have, want to, or need to, transition. Avoid referring to intersex people using language that describes transgender people, such as trans, or ‘sex and gender diversity’.

Avoid describing ‘both’ sexes and genders. Consider ‘all’ or ‘different’ genders, but do not assume that intersex people automatically have a non-binary gender identity or that having a non-binary identity means someone is intersex. Do not assume that people with a specific intersex variation identify with a particular gender.

Do not assume that surface characteristics define an intersex person's gender.

Intersex people should be included in policy statements on marriage equality, but are not included in statements on same-sex marriage: marriages in Australia have been annulled on the basis that one party was neither fully male nor fully female.

## COLLECTING SEX AND GENDER INFORMATION

Before you ask for employee or client information on sex or gender, ask yourself if, when and how this information is actually relevant. While it might be important, along with other demographic data, for some statistical, and diversity and inclusion, purposes, it may not be required for other purposes.

Commonwealth government guidelines recommend standardising on the collection of gender rather than sex. Gender records a person's social and personal identity, and recognition by the community; sex records actual biological characteristics.

Collecting data on sex can get complicated for people with intersex variations: chromosomal or phenotypic sex may have a limited or partial relationship to the legal sex stated on a birth certificate; birth assignment of sex can be approximate and, contentiously, reinforced through surgery or hormones before a child can personally consent. Collecting data on sex is also problematic for gender diverse people.

The Commonwealth guidelines recognise that any person, intersex or not, might identify as male, female or otherwise. Three gender classifications are being introduced for Commonwealth services: F, M and X. Titles are optional. This approach is recommended. Supporting multiple choice is also recommended.

Intersex is described by the Commonwealth Attorney-General's Department in the 2013 Australian Government Guidelines on the Recognition of Sex and Gender in clear terms:<sup>1</sup>

*An intersex person may have the biological attributes of both sexes or lack some of the biological attributes considered necessary to be defined as one or the other sex. Intersex is always congenital and can originate from genetic, chromosomal or hormonal variations. Environmental influences such as endocrine disruptors can also play a role in some intersex differences. People who are intersex may identify their gender as male, female or X.*

<sup>1</sup> Attorney General's Department (2013) Australian Government Guidelines on the Recognition of Sex and Gender, <http://ag.gov.au/Publications/Pages/AustralianGovernmentGuidelinesontheRecognitionofSexandGender.aspx> accessed 1 July 2013.

It is never recommended to define the X classification as intersex: most intersex people, like most other people, will continue to mark an F or M classification. The X classification has been available for passports since at least 2003, with access improved from 2011. It remains new and rare, in practice. From a human rights perspective, the new third classification should be opt in. An international community consensus statement asks that intersex children be registered "as females or males, with the awareness that, like all people, they may grow up to identify with a different sex or gender", including non-binary and multiple options<sup>2</sup>.

If you need to find out whether someone is intersex or not, you won't find out by asking their gender or legal sex. Intake forms could ask: "Are you intersex?" or "Do you have an intersex variation?" with a simple yes or no answer. If you have space, it can help to define intersex before asking this question.

If you are updating your forms, additional questions can help identify your same-sex attracted, transgender and gender diverse clients. Consider when to ask about sexual orientation, or when to ask an open question about how someone self-identifies their gender. Many trans groups welcome freeform options for people to write in their gender identity.

<sup>2</sup> See Public statement by the third international intersex forum, <http://oii.org.au/24241/public-statement-by-the-third-international-intersex-forum/>

## MEDICAL ISSUES IN THE WORKPLACE

*CJ, a thirty-something-year-old intersex man, said:*

*"I was impressed when my boss kept the detail that I am intersex to himself. I had to tell him, due to a leave request related to medical issues. Even when the topic came up later in conversation with co-workers, he never once even hinted that I was intersex. His discretion and respect for my privacy made me feel safe and comfortable in my workplace. My private physical characteristics are not anyone's business unless I choose to share, but people are usually very bad at keeping that to themselves. By guarding my private information about being intersex, my boss gained my trust and strengthened our professional relationship. As a result, I put more effort into my job and decided to stay longer than I had planned."*

*Bonnie, an intersex woman in her thirties, said:*

*"I have had great difficulty in holding down a job, or of feeling included in any type of hierarchical system, and I relate this to my issues with receiving non-consenting surgery as a child. This also means I have spent a lot of time being unemployed, self-employed, doing contract work or volunteering in the community. These can appear as gaps in my CV and be a real disadvantage in job hunting."*

In common with other people, intersex people may face medical issues that sometimes affect their work life.

It is difficult to generalise about the health needs of intersex adults, but people with intersex variations frequently need hormone replacement, often as a result of medical intervention. Fertility issues are associated with many intersex differences, whether innate or due to medical intervention. Surgical and hormonal interventions also affect capacity for sexual function and sensation.

Research shows that intersex people may have rates of trauma equivalent to those of women who have experienced sexual or physical abuse. Intersex people are often resilient survivors of trauma, with distinct perspectives and life experiences that are an asset to employers.

It is not a given that people with intersex variations will need additional medical leave; diagnosis and resulting medical intervention often take place during infancy or childhood, not during work life. Later diagnosis and reparative surgeries – at a time of the intersex person's choosing, rather than earlier involuntary interventions – may sometimes create a need for medical investigation and intervention.

Issues arising from medical intervention are perhaps more likely to create issues around disclosure.

## TRAVEL

In common with other people who have diverse bodily characteristics, a medical history of surgical interventions, or a need for hormone replacement therapy (HRT), many intersex people may sometimes face travel issues.

### Visas

OII Australia is aware of multiple intersex people who have migrated to Australia and secured permanent residency or citizenship. In these cases, surgical histories, experience of trauma and requirements for HRT have not impacted on their attractiveness to Australian employers nor their ability to satisfy medical requirements for residency. OII Australia is not aware of any cases where migration to Australia has proven impossible for someone on the basis of their intersex status.

### Passports

Like other people, people with intersex variations may travel with passports showing F, M or X sex markers. OII Australia is aware of intersex people who travel with each of these sex markers. While some people have faced unnecessary questioning or discomfort during security scans, OII Australia has not been made aware of any country that has refused entry to an intersex person on the basis of their intersex status.

Within Australia, discrimination against people on the basis of their intersex status is generally unlawful. Exemptions to the grounds of intersex status and gender identity apply to people with non-binary gender markers, that is, gender markers other than M or F. This means that organisations are not obliged to correctly record non-binary genders. However, this exemption does not permit discrimination against people with non-binary gender markers, such as a refusal to permit travel.

An LGBT or LGBTI-friendly organisation should permit the use of non-binary gender markers.

### Travelling with testosterone

Many people may require testosterone due to their bodily characteristics or surgical interventions, such as those due to cancer risk or some effects of ageing. In all such cases, testosterone is required for the rest of a person's lifetime, to ensure good health.

Australia is somewhat unique internationally in requiring incoming travellers to carry a special permit for the importation of testosterone. Unlike Queensland or Victoria, the State of New South Wales requires that pharmacies retain prescriptions for testosterone once presented. This imposes travel constraints, both domestically and internationally, depending in some part on the type of testosterone used. In contrast, some countries require that travellers carry prescriptions for their medication.

These regulations require persons who need testosterone to be well organised.

*Morgan, a forty-something-year-old intersex person, said:*

*"I migrated to Australia with my employer. Close to the start of discussions with my employer about the relocation process, I felt I had to disclose some of my medical history to my employer's migration agent. Some of that included a history of stuff that just doesn't happen to typical guys, and history of trauma and reactive depression. A full medical history is a necessary part of the visa application process, and I was concerned about the implications. The migration agent required me to disclose that data to the employer, on the basis that it could affect the offer of a position to me in Sydney. It could have affected that offer – and it could also have affected my existing role in the business – but I felt obliged to comply. Thankfully it made no difference, but a different employer might not have been so accepting."*



Recent amendments make it unlawful under the Sex Discrimination Act 1984 (Cth) to discriminate against a person on the basis of their sexual orientation, gender identity or intersex status. These changes came into effect on 1 August 2013. It is important for managers to be aware of these changes. Businesses should review their policies, processes and training to ensure that they do not discriminate against people on the basis of sexual orientation, gender identity or intersex status.

Professor Gillian Triggs  
President  
Australian Human Rights Commission

# FOR DIVERSITY AND INCLUSION PROFESSIONALS

*This section provides specific content for Diversity & Inclusion Professionals*

The background features a diagonal split between a dark purple top-left section and a white bottom-right section. Several large, light-colored curved arrows are scattered across the white area, pointing in various directions, creating a sense of movement and flow.

## THE INCLUSION OF DIVERSITY

Treating everyone the same does not recognise the different employment issues experienced by different groups, and can mean that people fall through the cracks. Nobody understands this more than Diversity Professionals.

Diversity by its very nature, is difference. Inclusion is about how employers and staff work with these differences respectfully.

As Diversity and Inclusion professionals, it is important to understand some of the unique challenges that intersex people face, and create a visibly inclusive workplace for intersex employees.

A safe and welcoming environment for staff and customers will build honesty and trust, enabling better service delivery and creating more pleasant, satisfying workplaces.

### Critical Focus

It is important for employers to provide clear messages that allow intersex staff and clients to disclose their intersex variation or status if and when they want to, and on their own terms.

Every employer and staff member has a responsibility and duty of care to provide equal, accessible workplaces and services free from judgment and discrimination.

Intersex status is also a protected attribute under the Commonwealth Sex Discrimination Act 1984 so a level of workforce education in this respect is also critical.

It is not necessary to become an expert. Awareness of the impact that a person's intersex status can have on their health and wellbeing, and some of the unique workplace challenges faced by intersex employees, puts you in good position to support employees and clients with intersex variations.

## SEX DISCRIMINATION ACT : INTERSEX PROTECTIONS

The Commonwealth Sex Discrimination Act 1984 was amended in 2013 to add new attributes to anti-discrimination law: sexual orientation, gender identity, and intersex status.

*Australia is a world leader in protecting intersex people: the 2013 amendment to the Sex Discrimination Act marked the first time intersex has appeared in as an independent attribute in anti-discrimination law.*

The law recognises that intersex has a biological basis, and it protects intersex people independent of other characteristics such as sex, sexual orientation, gender identity and disability. The intersex status attribute in the Sex Discrimination Act 1984 reads:

*intersex status means the status of having physical, hormonal or genetic features that are:*

- (a) neither wholly female nor wholly male; or*
- (b) a combination of female and male; or*
- (c) neither female nor male.<sup>1</sup>*

The Explanatory Memorandum to the amending Bill states:

*15. The definition recognises that being intersex is a biological condition, not a gender identity. It does not require a person who is intersex to identify as either male or female in order to access protections under the SDA. The definition is not intended to create a third sex in any sense. It does, however, recognise that sex is not a binary concept and that an intersex person may have the biological attributes of both sexes, or lack some of the biological attributes considered necessary to be defined as one or other sex.<sup>2</sup>*

<sup>1</sup> Australian Government ComLaw (9 September 2013) Sex Discrimination Act 1984, <http://www.comlaw.gov.au/Details/C2013C00532>

<sup>2</sup> Parliament of Australia (2013) Sex Discrimination Amendment (Sexual Orientation, Gender Identity And Intersex Status) Bill 2013, Explanatory Memorandum, [http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fems%2Ffr5026\\_ems\\_1fcd9245-33ff-4b3a-81b9-7fdc7eb91b9b%22](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fems%2Ffr5026_ems_1fcd9245-33ff-4b3a-81b9-7fdc7eb91b9b%22)



The Commonwealth Sex Discrimination Act 2013 prevents discrimination against intersex people on grounds of their intersex status. Intersex status is an innate biological attribute.

The Sex Discrimination Act also protects people on the basis of their perceived or actual sexual orientation and gender identity.

### No religious exemptions

The attribute was recommended by a Senate Legal and Constitutional Affairs Committee report in February 2013, which stated:

*7.19 ... the committee is of the view that since intersex status is a condition related to the innate biological characteristics of an individual, it should not be an attribute to which any religious exceptions apply<sup>1</sup>.*

As a result, no religious exemptions apply. In the explanatory memorandum to the amending Bill, the Attorney-General stated:

*During consultation, religious bodies raised doctrinal concerns about the grounds of sexual orientation and gender identity. However, no such concerns were raised in relation to 'intersex status'. As a physical characteristic, intersex status is seen as conceptually different. No religious organisation identified how intersex status could cause injury to the religious susceptibilities of its adherents. Consequently, prohibiting discrimination on the basis of intersex status will not limit the right to freedom of thought, conscience and religion or belief.*

The removal of religious exemptions on grounds of intersex status, sexual orientation and gender identity in aged care is of great benefit to people with intersex variations who are LGBT or queer.

<sup>1</sup> Senate of Australia (21 February 2013) Exposure Draft of the Human Rights and Anti-Discrimination Bill 2012, [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/Completed%20inquiries/2010-13/antidiscrimination2012/report/index](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Completed%20inquiries/2010-13/antidiscrimination2012/report/index)

### Other exemptions

However, exemptions apply to both intersex status and gender identity attributes in access to competitive sport, and in recording information on non-binary gender identities. The exemption in competitive sport is understood to involve a case-by-case assessment of circumstances, rather than lead to automatic exclusion of intersex people<sup>2</sup>. The exemption on recording data on non-binary gender identities is not permitted to otherwise lead to discriminatory treatment.

It is good practice to facilitate the recording of non-binary gender markers. An organisation that claims to be LGBT or LGBTI-friendly will do so as a matter of course.

<sup>2</sup> Senate of Australia (14 June 2013) Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013 [Provisions] [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/Completed\\_inquiries/2010-13/sexdiscrimsexualorientation/report/index](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Completed_inquiries/2010-13/sexdiscrimsexualorientation/report/index)

## BEYOND THE RHETORIC: COMPLETING THE PICTURE

There are many organisations that now describe themselves as LGBTI inclusive. A lot of work has been undertaken within recent years to develop inclusive policies, establish networks, and provide awareness training and a strong leadership message around LGBTI inclusion. Very few organisations however have a solid grasp of what this means for employees with intersex variations, or the impact that current language, forms and/or processes have on an intersex employees' perception and lived experience of that inclusivity.

Up until now, there has been very little in terms of resources for employers around intersex inclusivity and so it is little wonder that overall competency and knowledge in this area is low. It is now important for employers to show a level of understanding and competency around the inclusion of Lesbian, Gay, Bisexual, Transgender AND Intersex employees.

The guide provides employers with information to not only better understand what it means to have an intersex variation, but also to understand those areas of practice that could make a very real difference to the lived experience of an intersex employee. It also brings with it a level of authenticity in practice, moving employers beyond the popular focus on LGBTI inclusion to a more complete picture of what this really encompasses.

## TERMINOLOGY, ACRONYMS AND LABELS

For many employers, the terminology used within this area of diversity and inclusion can be somewhat confusing. Trying to understand and utilise the correct labels and terms is in itself problematic as very few people are comfortable with labels and those that seek to box individuals into a single term or identity will find that this approach is fraught with problems.

Seeking to find the correct terminology to utilise in forms, surveys and diversity diagnostics can often result in a barrage of emails requesting change or expressing disappointment in the way that a label or identifier has been used.

It is understandable that terminology can be contentious and that not all people will be comfortable with an acronym or way of expressing one's gender identity, gender expression, orientation or intersex status but the importance of a consistent language for employers is also recognised.

Within Australian Diversity & Inclusion practice amongst employer groups, LGBTI is the most common acronym used. Some university and community organisations also incorporate a Q for queer. For the purpose of this documentation and current communications, Pride in Diversity utilises the term LGBTI, however in doing so, it acknowledges that there is a diversity of bodies, identities and individuals within this umbrella term and that no one term is capable of encompassing them all. Regardless of the acronym used, organisations need to ensure that in practice, education, service delivery and intention, they are inclusive of all.

Regardless of whether your organisation utilises LGBTI, LGBTIQ or any other acronym, it is important that language be consistent, as inclusive as possible, and that you fully understand that not everybody will be comfortable with your chosen communication.

## YOUR LGBTI INCLUSION STRATEGY

While progressive employers will have a clearly articulated LGBTI inclusion strategy, the truth is that most actions or outcomes will typically focus on sexual orientation or gender identity with very little, if any, articulation of goals or outcomes to support intersex employees. This publication provides some examples of how organisations can be more inclusive of employees with intersex differences.

To ensure that LGBTI inclusion is not just giving lip service to intersex employees, employers may like to consider D&I outcomes around:

- The provision of documents such as this to HR Leaders, Managers, and Diversity Professionals to raise awareness.
- Incorporating information on what it means to have an intersex variation into LGBTI training or awareness sessions.
- Locating intersex speakers or engaging OII Australia to present at key diversity days, events or to HR teams.
- Distributing information on how to be an intersex ally in Network Welcome Packs or as part of your training.
- Providing definitions within HR policy documentation.
- Incorporating questions such as Are you Intersex: Yes/No on relevant forms as a voluntary form of self-disclosure and in recognition of the diversity amongst employees.

## AWARENESS TRAINING

Awareness training should ideally not only provide definitions around any acronyms or terms used internally but should also seek to expel binary assumptions of bodies, sex, gender, orientation and expression as well as hesitations around disclosure. Ideally, awareness training would allow for safe conversations to take place, provide an opportunity for people to engage with the topic, ask questions and learn from the experiences of others.

In many instances, individuals are often hesitant, or find it difficult to engage in conversations in this space for fear of saying something that may be politically incorrect, appearing offensive, homophobic, transphobic or discriminatory. This may in turn unintentionally contribute to the silence, invisibility and exclusion of LGBTI people. It is important that training programs provide an opportunity for people to genuinely engage without fear of being reprimanded for commentary, incorrect use of language or merely expressing an opinion.

Diversity conflict addressed in any awareness training needs to always be brought back down to acceptable and unacceptable workplace behaviour. By focusing on behavior, as opposed to individual beliefs or values, you are respecting the rich diversity of different cultures and beliefs while focusing on the inclusive culture created via respectful workplace interactions.

Pride in Diversity members can access LGBTI awareness training via their membership offerings. Pride in Diversity also offers fee-for-service training for non-members. OII Australia can be contacted for expert advice on all aspects of intersex inclusion.

## ZERO TOLERANCE : STIGMA AND DISCRIMINATION

Stigma and discrimination can present itself in many ways. It may be direct or indirect, intentional or unintentional but, in itself, will not be tolerated in any workplace that is intent on creating an inclusive culture for all employees.

Homophobia in particular has often been referred to as the 'last acceptable form of prejudice'. Often commentary, jokes or innuendo relating to one's orientation or gender identity is simply seen as "humour" with no ill intent, but to an individual who is the constant target of sexual innuendo or jokes this can be the cause of heightened workplace anxiety and stress. Organisations need to take a zero tolerance of homophobic/transphobic or related bullying/harassment in their zero tolerance of stigma and discrimination.

To mitigate against the risk of discriminatory behaviour, LGBTI related bullying and/or harassment, employers should clearly articulate within their bullying, harassment and discrimination policies, and in documentation, that such behaviour that will not be tolerated or deemed unacceptable within the workplace.

This may include changing discrimination statements to include: sexual orientation, gender identity, gender expression or intersex status and incorporating examples within bullying/harassment documentation such as constant commentary, innuendo and/or jokes in relation to one's orientation, gender identity, expression or intersex status. It is also recommended to include a statement in regard to deliberately disclosing information in relation to one's sexual orientation, gender identity or intersex status with a view of vilifying or causing undue stress to an individual.

## INTERSEX AND YOUR LGBTI EMPLOYEE NETWORK

There are ways in which your LGBTI employee networks can be more inclusive of intersex employees. Consider:

- Incorporating "Intersex for Allies" information along with other information and materials on Lesbian, Gay, Bisexual, Transgender employees within welcome kits or documents sent out to those joining the network.
- Consider inviting OII Australia or intersex speakers to talk at an event or hold a movie night showcasing a documentary about intersex people to raise awareness.
- Ensure that your events are not solely focused on gay, lesbian and/or bisexual employees.
- Provide definitions, information and links to resources on your LGBTI intranet page if you have one.

## COMMITMENT TO LGBTI INCLUSION

For many years, LGBTI issues and/or experiences have fallen into the “don’t ask, don’t tell” category within workplaces. Leaders have been hesitant to show open support for this aspect of diversity and inclusion, but this is changing, and quickly.

Responses such as “we are a conservative organisation” or “we are not yet ready for this” are no longer acceptable to the majority of people. People now understand that LGBTI workplace inclusion is not about banner waving, trying to force particular beliefs or values but about creating a safe and inclusive workplace in which all employees can be free to be themselves, in which all employees can come to work and do their job without the fear of being ostracised, bullied or harassed because of their individual difference.

LGBTI inclusion is fast becoming a differentiator in the world of workplace diversity. While most employers are comfortable tackling some of the ‘safer/easier’ aspects of D&I, this is still seen by many as a ‘tough space’; one that is difficult to get across the line. For that reason alone, LGBTI inclusion has become somewhat of a litmus test as to how serious an organisation is about diversity and inclusion. Inclusive and diverse organisations are high on the wish list for many young graduates and job seekers regardless of their identification or body characteristics. The Pride in Diversity membership list and LGBTI Recruitment Guide of Inclusive Employers is fast becoming a source of reference for these prospective employees.

This guide has been developed for those organisations showing leadership in this area, to inform and guide your practice and to keep you at the forefront of international best practice for LGBTI workplace inclusion.

## RECRUITMENT AND TALENT ACQUISITION

With lived or perceived stigma and invisibility can come a nervousness in relation to potential employer relationships, organisational culture and the camaraderie of new team colleagues.

The greater the level of diversity competence; the more visible your inclusivity. The more visible your inclusivity, the greater your ability to attract and retain talented, motivated and engaged employees from all walks of life.

The visibility of your inclusivity is a key differentiator. Knowledge and understanding of diverse groups becomes your power to promote and facilitate change at a level that is both understood and felt by all.

The business case for the recruitment of diverse talent is very clear. To reap the benefits of intersex inclusion requires organisations to be a little more educated on what it means to be intersex, to make some adjustments to terminology and, to some processes.

There is a very real risk if promoting workplaces as LGBTI inclusive to potential employees without knowledge or understanding of what the ‘I’ in LGBTI stands for – and, more importantly, what the potential employee expectations will be as a result.

## **WORKPLACE CULTURE: PRODUCTIVITY & ENGAGEMENT**

An engaged and productive employee is one that can come to work and perform in a friendly, effective and collegial work environment.

A productive workplace culture is one in which all employees are respected and treated equally and one that is quick to address any behaviour that shows a disrespect or intolerance of individual diversity.

While overtly discriminatory behaviours are easily identified and addressed, some of the more covert behaviours, policies and/or practices that delegitimise or exclude some diverse employee groups often go undetected and can equally impact one's level of productivity, engagement and loyalty.

Understanding those behaviours, policies or practices is important to avoid running the risk of counteracting or contradicting much of your work and statements around an inclusive workplace culture.

This workplace guide provides employers with a wealth of information as to the challenges faced by intersex employees and how to positively impact the lived day to day experience of all your employees.

## RESPONDING TO: “WE DON’T NEED THIS WE TREAT EVERYBODY THE SAME”

Treating everybody the same clearly is not the solution. People are not the same. The goal is not to create a stereotyped box that everybody has to fit into but rather ensure the same level of equity for all employees, regardless of their individual difference.

To bring LGBTI employees up to the same level of privilege, we need to acknowledge the following:

The majority of people can talk freely about their family.  
*The majority of lesbian, gay, bisexual, transgender people can't.*

The majority of people don't have to think about their sexual orientation and whether or not it's on display.  
*The majority of lesbian, gay, bisexual people do.*

The majority of people don't have to hide their gender identity; are not bullied or harassed because of it  
*The majority of transgender people and many intersex people do, or may.*

The majority of people don't hesitate when filling out forms asking for their sex or gender.  
*Many transgender, intersex people may.*

The majority of people don't receive condemnation, harassment, discrimination because of their sexual orientation, gender identity or intersex status.  
*Many LGBTI people do.*

The majority of people won't be fearful of their sexual orientation, gender identity or intersex status impacting their career.  
*The majority of LGBTI people will.*

The majority of people won't be the target of constant jokes, innuendo, negative commentary as a result of their sexual orientation, gender identity or intersex status.  
*Many LGBTI people will.*

The majority of people can talk freely to their managers and colleagues about their weekends  
*Many LGBTI people can't.*

Many generic forms can be easily filled out  
*For many LGBTI people, they can't.*

LGBTI inclusion is not about giving a group of people special treatment. Rather, it is about creating a space where people are welcomed into your team for the skills that they bring and the contributions that they make. And, once they're there, it's about allowing everyone (without exception) the privilege of coming to work, doing their job without the fear of individual difference negatively impacting their lived experience within your organisation or their career opportunity.

Indeed these differences should be celebrated and utilised, not hidden.

## RESPONDING TO: “WON'T LGBTI INCLUSION BE OFFENSIVE TO SOME EMPLOYEES?”

Many employers worry that initiatives such as this will be offensive to employees, customers, clients and/or key stakeholders from different cultures, of different religious beliefs or simply with more conservative mind sets. There is a very simple response to this.

LGBTI workplace inclusion is absolutely not about trying to change individual values or beliefs. It is about workplace behaviour and how people interact with each other in a working and professional environment.

The very nature of diversity means that organisations will have cultural, religious and attitudinal differences amongst their employees. Support for diversity is not meant to enforce homogeneity, ensuring that everyone thinks the same way about a particular issue.

Diversity brings with it difference and, as a result, there will be an expectation (particularly in this space) that not everybody will be happy with the direction that the company is taking.

But there is a key point to be made here.

Diversity = Difference  
Inclusion = Working with all differences respectfully.

People's personal views, values and beliefs are their own; it's their behaviour at work that is targeted by inclusion initiatives.

Employers have a duty of care to provide a work environment in which all employees can thrive.

It is against the law to discriminate against individuals because of their individual difference.

By supporting LGBTI workplace inclusion, you are helping to ensure that your workplace is one in which all employees can thrive. You are also clearly communicating that harmful, discriminatory or exclusive behaviour will not be tolerated.

## RESPONDING TO: “WE ARE NOT READY FOR THIS YET”

Fortunately, the law begs to differ.

This is no longer a “nice to have” or “the right thing to do”. It's the law.

The truth of the matter is, employers are responsible for the actions of their employees. The Australian Human Rights Commission and State/Territory anti-discrimination bodies can now investigate and conciliate complaints of alleged discrimination and human rights violations under federal law in specific areas of public life including employment, provision of goods and education.

For intersex people, there are no exceptions.

Specific measures to ensure inclusion for a demographic that is all too often the target of prejudice, bullying and harassment, let alone discrimination is not only a duty of care or a compliance issue but an exercise in risk mitigation.



## **RESPONDING TO: “I’M NOT PERSONALLY COMFORTABLE WITH THIS”**

Many people with conflicting values and/or beliefs have difficulty supporting LGBTI inclusion initiatives, particularly when they are first introduced. All workplaces comprise a wide array of individual differences and, of course, this may at times generate disagreement or dissension.

Nobody is trying to change employees’ or employers’ beliefs, culture or values. Personal beliefs or values should have no impact on working relationships as long as an employee’s behaviour does not discriminate against, ostracise or disadvantage another employee. Everyone is entitled to a respectful work environment.

The role of a manager is to support inclusion, workplace values and a code of conduct that would facilitate a safe and inclusive work environment for all team members, not just those who share the same viewpoints, or who live a similar life.

Even outside of the role of a manager, it is a condition of employment that employees follow a code of conduct and adhere to workplace values. That applies to all employees, including LGBTI employees.

Employees may from time to time disagree with an employer’s policies or practices, but it is not acceptable to express those feelings at work in any manner that undermines the organisation’s goals. Your organisation has compelling business reasons for prohibiting discriminatory behaviour that go well beyond the latest changes to discrimination law. Inclusive workplaces assist employers in achieving a myriad of organisational goals.

Workplace diversity is not about valuing one diversity over and above another. It is not about trying to pull apart your deeply held religious convictions or cultural norms. It is simply about creating an inclusive environment for all employees. While it would be wonderful if diversity conflict did not exist in any way, shape or form; the truth of the matter is that it does. That is unlikely to change.

If LGBTI inclusion initiatives are causing you personal grief or inner conflict, to the point that you are finding it difficult to engage and perform your role; it is important to speak to your HR advisor (or equivalent) to discuss options of talking this through with someone. They will be able to advise of any services that may be able to support you in this instance.



“The AFP is an employer of choice for LGBTI communities because we work hard to value and include diverse employees. The AFP has supported intersex members undertaking overseas deployments. The AFP has resources in place through the Human Resources Portfolio and the GLLO network to support intersex members of the AFP and Management.”

AUSTRALIAN FEDERAL POLICE  
Assistant Commissioner Justine Saunders,  
National Manager Policy & Governance and GLLO Network Champion

# INTERSEX ALLIES

*This section provides specific information on how to be an Intersex Ally.*



## TOP 10 WAYS TO BE AN INTERSEX ALLY

There are many things that LGBT and other people can do to be an ally of intersex people. Becoming an ally to people with intersex variations can benefit other stakeholders in your business, too:

1. Recognise intersex as a form of bodily diversity; intersex people are born with atypical physical sex characteristics.
2. Include “intersex status” in LGBTI diversity initiatives in the workplace, and in HR policies and frameworks.
3. Change your language and frame of reference, acknowledging intersex status as distinct from sex, sexual orientation and gender identity in the Sex Discrimination Act. Do not assume that intersex people will respond to initiatives around sexual orientation or gender diversity.
4. Consider how to create a safer and celebratory workspace environment for intersex people.
5. Consider how to create a safer environment for people with intersex variations in service delivery and access.
6. Adopt an intersex perspective; put intersex issues, intersex people and intersex-led organisations front and centre when talking about intersex.
7. Follow intersex organisations, and share intersex issues, on social networks.
8. Consider how to support intersex organisations and the needs of intersex people when reviewing philanthropic policies and practices. If you support LGBTI activities, make sure they are relevant to people with intersex variations.
9. Consider how you can manage any workplace dress codes to effectively support bodily diversity associated with intersex and other differences. Can you apply the same dress code regardless of sex or gender?
10. Consider whether, when and where your workplace needs to record information on sex, gender and titles. Do you need to record this information? Adopt federal Guidelines on gender recognition if you have to record gender in your workplace. Go further and support multiple options. Can you offer an option to opt out?

# FOR PARENTS OF INTERSEX CHILDREN

*In almost all LGBTI training, people have asked us questions about the parenting of intersex children, this section has been included to assist in responding to these questions.*

## BODY DIVERSITY IS NORMAL

Congratulations on the birth of your child!

Sex characteristics are more varied than most people are aware, but children with intersex differences can grow up to be happy, well adjusted and active members of society.

Honesty and openness are the best gifts for your child and your family. Secrecy creates shame and can result in unhealthy outcomes for your child and your relationship with them. Try to make sure that the choices you make today are ones that you can be honest about when your child is older, including when they are old enough to become sexually active.

Presenting your child with age-appropriate facts about their body in a matter-of-fact manner will help your child to see them in the same light. Ensure your child is fully informed of their diagnosis by the time they are around 16 years old, and allow them to make their own treatment decisions by that age.

Your doctor or medical team may recommend cosmetic genital surgery or hormone intervention based on a desire to ease concerns about physical differences or potential identity issues. Cosmetic surgeries are intrinsically focused on appearance, not sexual function or sensation. These irreversible interventions are contentious because they may later limit your child's range of choices, capacity for intimacy and expression. It is ok to seek a second opinion.

Consider carefully whether surgical or hormonal options are aimed at relieving your own anxiety or distress; or improving your child's long term quality of life. Bodily diversity is natural, and children deserve the right to decide for themselves if they wish to undergo irreversible changes to their body.

In 2013, an Australian Senate inquiry stated:

*Normalising appearance goes hand in hand with the stigmatisation of difference... There is frequent reference to 'psychosocial' reasons to conduct normalising surgery. To the extent that this refers to facilitating parental acceptance and bonding, the child's avoidance of harassment or teasing, and the child's body self-image, there is great danger of this being a circular argument that avoids the central issues... Irreversible medical treatment, particularly surgery, should only be performed on people who are unable to give consent if there is a health-related need to undertake that surgery, and that need cannot be as effectively met later, when that person can consent to surgery.<sup>1</sup>*

<sup>1</sup> Paragraph 3.128, Australian Senate (25 October 2013) Involuntary or coerced sterilization of intersex people in Australia, [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/Involuntary\\_Sterilisation/Sec\\_Report/index](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Involuntary_Sterilisation/Sec_Report/index)

## BIRTH ASSIGNMENT

One of the first things people ask after a birth is whether the new baby is a boy or a girl, and you may feel anxious if you are unable to immediately answer this question. It may be easier to tell family that doctors are not completely sure of your child's sex. Texts and email can help delay sending detailed updates.

Download and share information guides from OII Australia and the AIS Support Group Australia, if you wish.

Consider giving your baby a gender-neutral name, one that can be used by either boys or girls. Choosing one of these can give you more time to make other decisions, and deal with uncertainty.

Choose either male or female, the sex that appears most predominant in your child, based on all the information available to you, but knowing that the assignment or gender identity of your child may or may not change.

## HEALTH ISSUES

Your child is likely to be healthy even if they have a mixture of sex traits.

In a small number of instances, such as with salt-wasting Congenital Adrenal Hyperplasia (CAH), immediate medical attention is required; ongoing treatment may also be required to maintain the health and wellbeing of your baby.

An atypical genital appearance is not a physical health issue, and bodily diversity is normal.

## SUPPORT

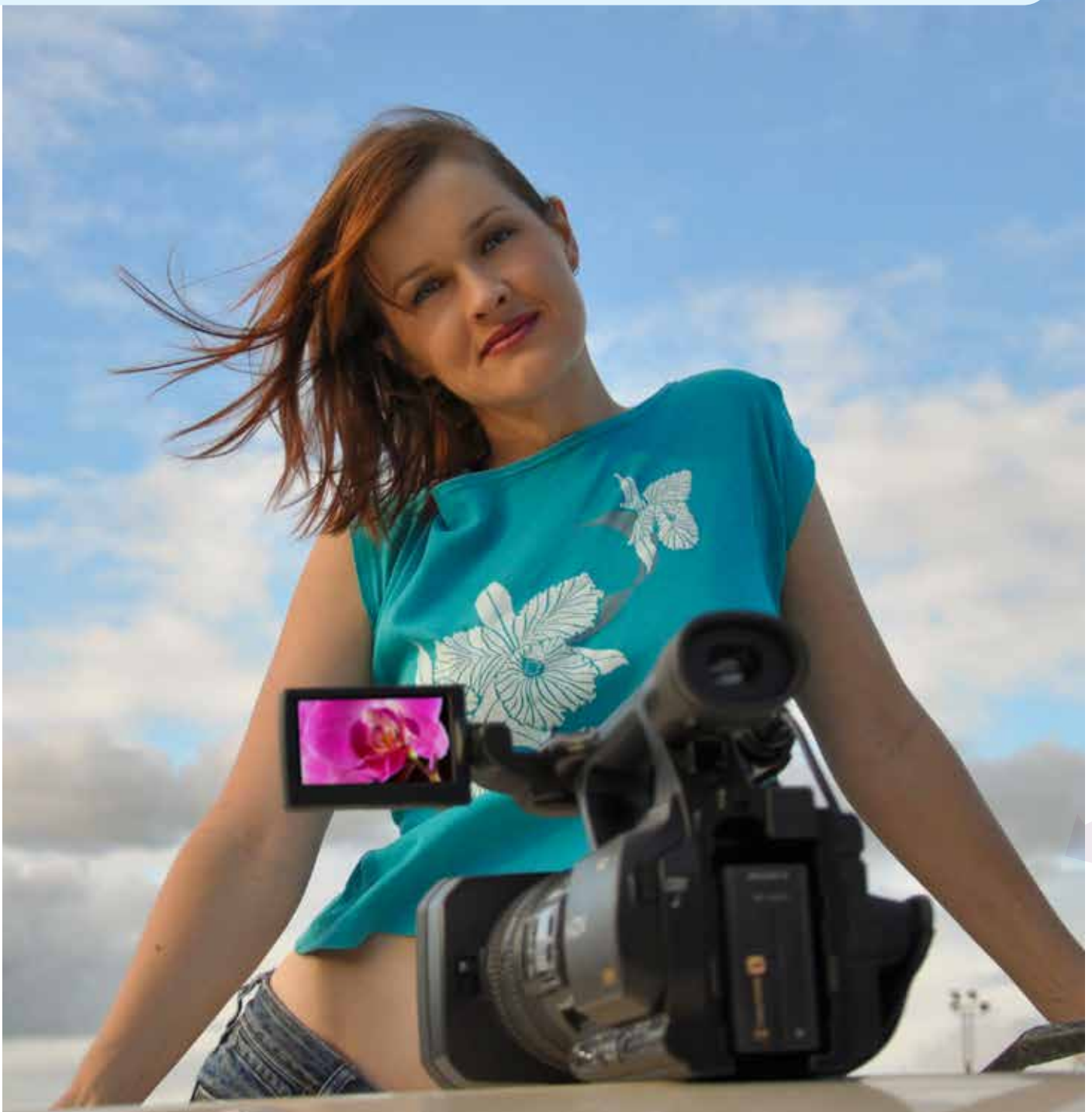
Counselling and support, including support from peer groups is highly recommended. Your doctor or medical team should put you in contact with support staff who can help.

Isolation is one of the biggest issues for intersex persons and their families, and the benefits of contact with other parents and individuals cannot be overstated.

OII Australia and/or the AIS Support Group Australia can put you in contact with intersex people, and parents of other children.

I am a 46XY woman and I love my work as a filmmaker and academic, juggling my busy schedule with the responsibilities of parenthood. While I don't feel like everybody needs to know everything about me all of the time, I am often up front about my difference; most of the people I work with know about it and are really cool. However, I wasn't always so open. I used to keep my intersex status an absolute secret at work and it was my fear that it would become known somehow to my colleagues I am intersex and this would be used against me. I'm glad that we have progressed as a society and I hope this resource is especially helpful for people with intersex variations. We live full and productive lives.

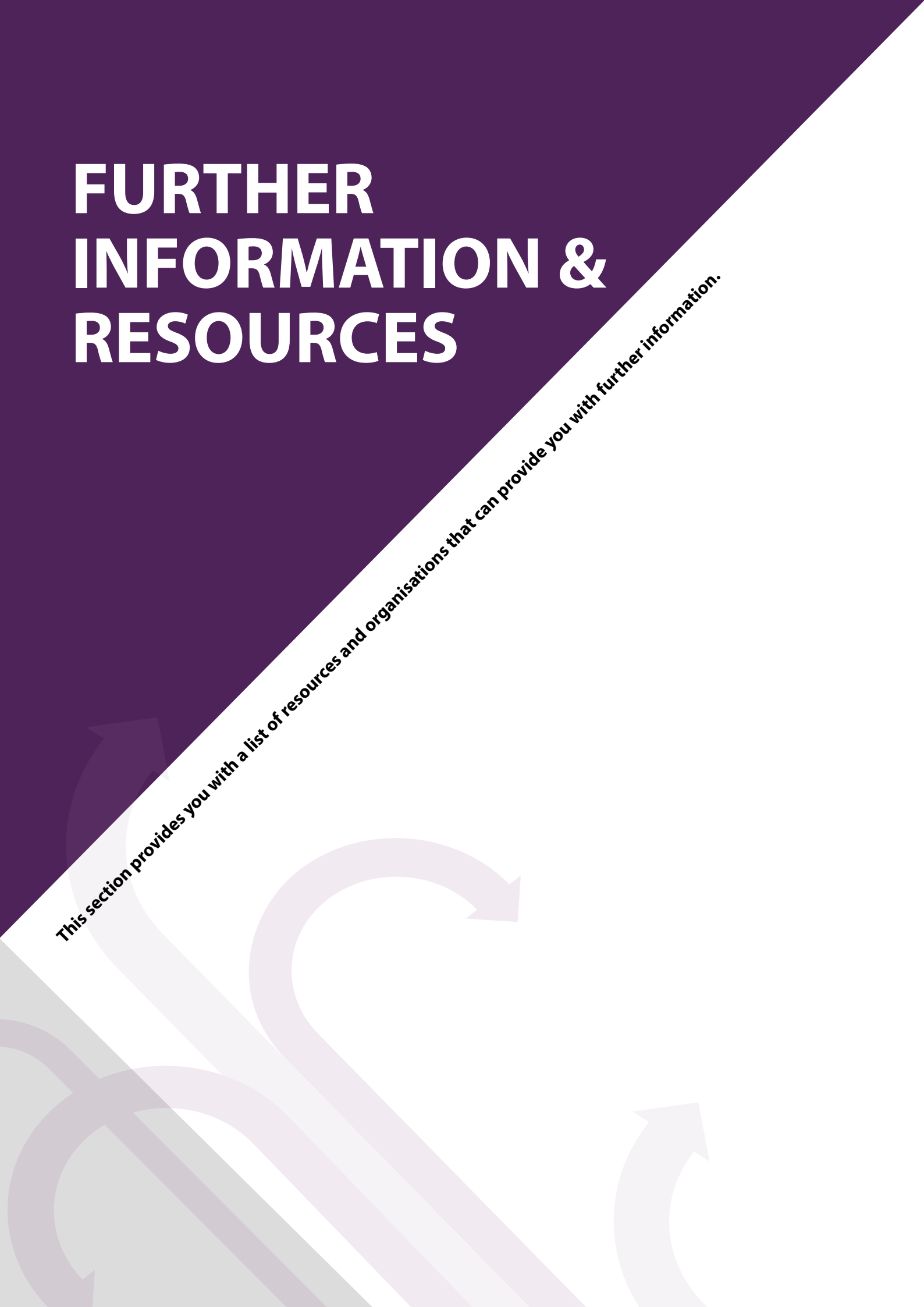
Dr Phoebe Hart  
Director & Producer, *Orchids: My Intersex Adventure*.  
Principal, Hartflicker Moving Pictures.  
Lecturer, Queensland University of Technology.  
Secretary, AIS Support Group Australia.





# FURTHER INFORMATION & RESOURCES

*This section provides you with a list of resources and organisations that can provide you with further information.*



## BOOKS AND VIDEOS

### Non-fiction books:

- *Fixing Sex: Intersex, Medical Authority and Lived Experience*, by Katrina Karkazis.

### Annual international intersex forums

We also recommend reading the statements of the annual international intersex forums, available on many intersex organisations' websites, including via [oii.org.au/faq](http://oii.org.au/faq)

### Fictional literature:

- *Golden Boy* by Abigail Tarttelin.

### Documentary films and videos:

- *Intersexion* (2012); narrated by New Zealand activist Mani Mitchell.
- *Orchids: My Intersex Adventure* (2011); an Australian road trip movie by Phoebe Hart with Bonnie Hart.
- *XXXY* (2000); a 13 minute film/video now available online.
- Documentary videos can be found on the OII Australia website at: [oii.org.au/videos](http://oii.org.au/videos)
- An animation of Tony Briffa's experiences, by NICHE, provides a great overview: [oii.org.au/tony-video](http://oii.org.au/tony-video)

## AUSTRALIAN INTERSEX SUPPORT SERVICES

OII Australia and the AIS Support Group Australia provide information, speakers, services and peer support.

### OII Australia

OII Australia is a national Public Benevolent Institution by and for intersex people. The organisation's goals are to support people with intersex variations, to help create a society where sex differences are not stigmatised and where intersex people's rights as people are recognised.

Services by OII Australia include:

- Phone and internet-based support, and gatherings in Sydney and Melbourne.
- Public speakers, and a range of education and information resources online, including articles, videos, leaflets and posters.
- Advice on making services, surveys and other activities intersex-inclusive.
- Training and advice on human resources and equal opportunities issues for intersex people.
- Advice on human rights, health and law reform issues.

Organisation Intersex International Australia  
[oii.org.au](http://oii.org.au)

Find out more about employer resources and materials at:  
[oii.org.au/employer](http://oii.org.au/employer)

Find OII Australia on social media at:  
[facebook.com/oii.au](https://facebook.com/oii.au)  
twitter @oiiaustralia  
[oiiaustralia.tumblr.com](http://oiiaustralia.tumblr.com)

### Androgen Insensitivity Syndrome Support Group Australia (AISSGA)

The AIS Support Group Australia (AISSGA) is a peer support, information and advocacy group for people affected by AIS and other intersex variations, and their families. It also holds an annual conference for members.

The AISSGA can be found at:  
[aissga.org.au](http://aissga.org.au)

## PRIDE IN DIVERSITY

Pride in Diversity is Australia's first and only national not-for-profit employer support program for all aspects of LGBTI workplace inclusion. Pride in Diversity is an ACON social inclusion initiative funded by member organisations and sponsorships.

Specialists in HR, organisational change and workplace diversity, Pride in Diversity has since its inception in 2010 established itself as an internationally recognised program and in integral partner to many LGBTI employer support organisations across the globe.

Pride in Diversity publishes the Australian Workplace Equality Index (AWEI), Australia's definitive national benchmark on LGBTI workplace inclusion. This index not only benchmarks Australia employers but continues to shift and contribute to international best practice. The AWEI incorporates the largest national LGBTI employee survey which contributes to both national and international data on the impact of inclusion initiatives on LGBTI employees and the organisational culture as a whole. The AWEI annually generates an Australian Top Employers List for LGBTI employees along with several other awards for excellence in this area.

Pride in Diversity is proud to partner with OII Australia for this years publication. Publications are released annually by Pride in Diversity on aspects of LGBTI workplace inclusion. IBM has generously sponsored our annual publication for the last four years. Without their support, publications such as this would not be possible.

Web: [www.prideindiversity.com.au](http://www.prideindiversity.com.au)  
 Facebook: [facebook.com/prideindiversity](https://facebook.com/prideindiversity)  
 Twitter: [pridediversity](https://twitter.com/pridediversity)  
 Phone: +612 9206.2139

For more information about the Australian Workplace Equality Index (AWEI) and associated employer awards, please visit:

[www.prideindiversity.com.au/awei](http://www.prideindiversity.com.au/awei)

## EMPLOYER SUPPORT

**For employer support on LGBTI Workplace Inclusion,** the Australian Workplace Equality Index and associated Employer Awards, contact:

Pride in Diversity  
 PO Box 350  
 Darlinghurst NSW 1300

[prideindiversity.com.au](http://prideindiversity.com.au)

Phone: +612 9206.2139

**For expert advice on intersex issues, contact:**

Organisation Intersex International Australia  
 PO Box 46  
 Newtown NSW 2042

[oii.org.au](http://oii.org.au)  
[facebook.com/oii.au](https://facebook.com/oii.au)  
[twitter @oiiaustralia](https://twitter.com/oiiaustralia)



OII Australia is delighted to partner with Pride in Diversity and welcome you to this guide to intersex and intersex issues for employers. This guide hopes to change social attitudes in the workplace, and enable more people with intersex variations to just be ourselves, as we are.

We hope that it will make a difference to intersex people who are employed by your business, and those who are clients or customers of your business. In the words of an international intersex community consensus statement, we hope that it will help create supportive, safe and celebratory workplaces.

Morgan Carpenter  
President, OII Australia.  
Technologies Project Manager.  
Research analyst and consultant

# GLOSSARY



## DEFINITION OF TERMS

<p><b>AISSGA</b></p>	<p>Androgen Insensitivity Syndrome Support Group Australia, a peer support, information and advocacy group for intersex people in Australia.</p>	<p><b>Hermaphrodite</b></p>	<p>A misleading term sometimes used to describe intersex people. In biology, hermaphrodites such as snails, some fish and plants, possess fully functioning fertile sets of both “male” and “female” sex organs. This is impossible in mammals. Some intersex medical diagnoses have been termed “pseudo-hermaphrodites” or “true-hermaphrodites”. While some intersex people reclaim the term, others find it stigmatising due to its medical and biological uses.</p>
<p><b>Cis or Cisgender</b></p>	<p>A term used to describe when a person’s gender identity matches social expectations for their sex assigned at birth; the opposite of transgender. It is unclear how this term relates to people with intersex variations, if at all.</p>	<p><b>HR</b></p>	<p>Human Resources, or Human Rights, depending on the context. In this report, it refers to Human Resources: people in the workplace.</p>
<p><b>Congenital</b></p>	<p>Also “innate”, a term meaning that something is present at birth.</p>		
<p><b>D&amp;I</b></p>	<p>Diversity and Inclusion, a workplace strategy to promote diverse workplaces free from discrimination.</p>	<p><b>Intersex</b></p>	<p>A simple and least stigmatising term for a broad range of congenital physical traits or variations that lie between stereotypical ideals of male and female.</p>
<p><b>DSD</b></p>	<p>Disorders of Sex Development, a stigmatising term that reinforces the idea that intersex traits are individual medical conditions or disorders that need to be fixed.</p>		<p>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.</p>
<p><b>Gender Identity; Gender Expression</b></p>	<p>Gender identity, and related appearance or mannerisms or other gender related characteristics of a person. This includes the way people express or present their gender. It recognises that a person may identify as a man, woman, both, neither or otherwise. Intersex people have a range of gender identities, just like non-intersex people.</p>	<p><b>Intersex Status</b></p>	<p>An attribute in the Commonwealth of Australia Sex Discrimination Act 1984, as amended in 2013 The attribute is defined in physical terms. It is deliberately separate from attributes of sex, gender identity, sexual orientation and disability.</p> <p>The Act contains exemptions relating to competitive sport and recognition of non-binary identities. No specific religious exemptions were intended, due to the physical, innate characteristics of intersex.</p>
<p><b>Gender Diverse</b></p>	<p>An umbrella word for people with diverse or non-conforming gender identities. Sometimes used in preference to the term transgender. Intersex should not be conflated with gender diverse.</p>	<p><b>LGBTI</b></p>	<p>An acronym or portmanteau term for same sex attracted, transgender/gender diverse, and intersex people. LGBTI is short for Lesbian, Gay, Bisexual, Transgender, Intersex. Other terms such as LGB or LGBT may be used to refer to some of these people.</p>

## DEFINITION OF TERMS

Misgendering	Describing or addressing someone using language that does not match a person's gender identity. For people with intersex variations, this may include a presumption that they have a non-binary gender identity, just as much as an assumption that they are a man, or a woman.	Queer	An umbrella term for a wide range of non-conforming gender identities and sexual orientations.
Non-binary	Someone with a gender identity other than man or woman; there are a diverse range of non-binary gender identities. Some intersex people and some trans people have non-binary gender identities.	X	A non-binary classification in use on Australian passports since at least early 2003. From 2013, this classification is becoming available in all dealings with the Commonwealth government and its agencies. Any intersex or trans person may choose an X classification, rather than M or F. The X classification should not be conflated with intersex.
OII Australia	Organisation Intersex International Australia Limited, an intersex-led Public Benevolent Institution. OII Australia promotes human rights and bodily autonomy for intersex people, and provides information, education and peer support.		
Pride in Diversity	Australia's first and only not-for-profit workplace program designed specifically to assist employers with the inclusion of lesbian, gay, bisexual, transgender and intersex (LGBTI) employees.		
Sexual Orientation	A person's sexual orientation towards persons of the same sex, persons of a different sex, persons of the same sex and persons of a different sex, or persons of neither sex. Intersex persons have diverse sexual orientations.		
Trans or Transgender	An umbrella term used to refer to someone whose gender identity differs to their sex assigned at birth. The term is often mistakenly conflated with intersex.  Some transgender and gender diverse people prefer to use other words. Australia and the Pacific are home to many culturally-specific terms		



“Most people think about law as the best way to achieve a culture of inclusion and non-discrimination. But law is the beginning, not the end. Attitude and culture brings the principles behind law alive. A lived culture of inclusion for lesbian, gay, bisexual, transgender and intersex people comes from a constant and vigilant mindfulness for others, and respect for diversity. This attitude is in the interests of employees and employers. The unleashing of an individual’s maximum potential comes about because they feel comfortable and confident to be their fullest self, regardless of their sexual orientation, gender identity or intersex status”.

Tim Wilson  
Australian Human Rights Commissioner









## Brilliance isn't born out of conformity.

Simply put, the world is a more interesting place when people are free to be themselves. To share their diverse range of viewpoints. And to hone their unique skills. IBM has always believed that this diversity is not just a necessity, but our responsibility. That's why we respect and support a strong LGBTI community, where everyone is encouraged to stand out instead of blend in. It's what propels us as a company. It's what makes us smarter.

Let's build a smarter planet.™

[ibm.com/diversity/au](http://ibm.com/diversity/au)



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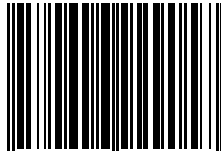
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