



## LGBTIQ – HOW YOU CAN HELP CHANGE THE WORKING ENVIRONMENT FOR LGBTIQ PEOPLE

### EXCUSES JUSTIFYING DISCRIMINATORY BEHAVIOUR

We might make excuses to justify behaviours that are discriminatory, including by downplaying our own actions (for example, saying something was only a joke) or by dismissing a person’s legitimate emotional response (by suggesting that they’re being too sensitive, or that they need to not respond so personally).

#### EXAMPLES OF EVERYDAY DISCRIMINATION

COMMENT OR BEHAVIOUR	ISSUE
To a man: “What is your wife/ girlfriend’s name?” To a woman: “What is your husband/boyfriend’s name?”	Assumption of heterosexuality
“Perhaps don’t come out to the client so we can retain the file.”	Assumption that bringing your “whole self” to work is a “Career Limiting Move”
“Don’t brief that barrister Mr Smith. The judge won’t like someone without a family.”	Assumption that LGBTIQ people are not suitable work colleagues Assumption that LGBTIQ people don’t have families, or perhaps, the connotation that they are unsuitable to have a family Excluding someone because of their sexual orientation or gender identity
”Did you know they’re gay?”	Assumption that identifying someone as LGBTIQ is damaging
“I wouldn’t have picked you as gay.”	Assumption as to how LGBTIQ people appear or behave. Negative connotation of hiding/concealing one’s self
“That’s so gay.”	Using the word “gay” as a synonym for “bad”
“I’m fine working with you as long as you don’t hit on me.”	Insults masquerading as jokes Assumption that you are desirable, and that an LGBTIQ person inappropriately conducts themselves
“Brief Ms Smith on that building matter, she’ll fit in with the blokes.”	Role and gender stereotyping

“Did you see what they’re wearing? I couldn’t take him or her seriously.”	Preoccupation with physical appearance
“Have you thought about toning it down a bit?”	Focus on attributes other than ability Non-consideration for equitable briefing
“I heard a rumour that Ms Smith is a lesbian. Is that true?”	Gossiping about someone’s gender or sexuality
“You’ve got marriage equality now. What else do you want?”	Assumption that marriage equality was a final destination. Many issues remain: <ul style="list-style-type: none"> <li>• Transgender rights</li> <li>• Exemptions from anti-discrimination legislation</li> <li>• Anti-bullying in schools</li> <li>• Equal treatment of rainbow families</li> <li>• Gay conversion therapy</li> <li>• Violence against LGBTIQ youth and adults</li> <li>• Criminalisation of LGBTIQ people in many countries</li> </ul> Non-consensual medical interventions on intersex infants and children.
“She’s trans, but you can’t really tell!”	Potentially insulting of a person “passing off” as the gender with which they identify

## OPTIONS FOR DEALING WITH EVERYDAY DISCRIMINATION

### “SELF-EDITING”

- Where a person does not reveal any information about themselves to reveal they are of a diverse sexuality or gender identity, for example, always referring to one’s significant other in gender neutral terms so not reveal one’s sexuality at work.
- Unfairly places the burden of minimising any discrimination on the person who might be subject to discrimination
- Takes a huge amount of energy to avoid revealing fundamental information about one’s sexuality and gender identity
- Perpetuates stigma and discrimination in the workplace

### DEFLECTING

- Minimises the seriousness of the conduct and the effect it has had
- Allows the perpetrator to ‘get away’ with their behaviour
- Puts the receiver in the social position of ‘not being able to handle it’ in addition to the original comment
- Perpetuates the myth that certain behaviour is consequence-free

### SILENCE AND INACTION

- Gives consent to what is said and done
- Lends support and cover to the transgressor
- Leaves the individual receiver to deal with it alone



- Becomes acceptable workplace culture
- Discourages people from raising it as an issue

### CALLING IT OUT

- Don't validate humour that is explicitly or implicitly offensive by staying silent, making excuses or laughing
- Call out the "joke": "***What did you mean by that comment?***"
- If you miss the moment to call it out, don't let it pass – ensure the maker of the comment and those who heard you are aware of your stance
- Make it clear that calling someone names, ridiculing or abusing them is not a joke to the receiver ways of calling it out:
- On your behalf
- On behalf of another
- Be direct: "***I don't assume everyone is heterosexual. Do you?***"
- Do it with humour
- Defer: approach the maker of the comment later to convey your message

### MAKE GENDER ROLES AND STEREOTYPING A THING OF THE PAST

- Question assumptions about the type of work that people can do, regardless of gender or sexuality
- Focus on ability, not personal life
- Question which types of people you are comfortable working with and why
- The "***beer test***" may find someone you would like to work with because they are fun at the pub, but does it find the most capable candidate?

### CHALLENGE LABELLING AND STEREOTYPES

- Reframe a discussion anytime someone at work is referred to as "***too bossy***" or "***too soft***" or "***too manly***" or "***too feminine***"
- What unconscious bias do you attribute to people who are different to you?

### STRATEGIES FOR JUNIOR PRACTITIONERS

- The legal profession can appear intimidating, even oppressive, to "outsiders". Don't assume this is true. You belong in the legal profession if you want to.
- Junior practitioners often feel that without enough experience, seniority and organisational clout, they can't bring their whole self to work.
- Accept that professional life may involve perpetual "coming out" to more senior practitioners and clients.
- Consider establishing a reputation for your capabilities if you are not comfortable coming out immediately.
- Is anything stopping you from being "***The excellent lawyer who happens to be LGBTIQ***"? Can you set a powerful new norm by being it?
- Consider that nothing good comes from concealing your whole self.
- Allow yourself to be surprised by how accepting people can be.
- Be aware of the Pride and Diversity Workplace Equality Index ("**[AWEI](#)**") which ranks many workplaces on their LGBTIQ friendliness.
- Consider starting an LGBTIQ "ally" campaign. For example, Herbert Smith Freehills invited LGBTIQ allies to display a poster in their offices and many posters remain up years later.



## SUGGESTIONS FOR SENIOR PRACTITIONERS

- Understand your own biases and challenge those biases.
- Does the “beer test” to find employees or colleagues produce the best possible candidate for the job? Could it be re-enforcing your biases?
- Senior practitioners and leaders can communicate explicitly that they support diversity and inclusion, and don’t discriminate on any basis, including sexuality, sex, or gender identity.
- Informal comments and signals are noticed by junior practitioners, who are highly attuned to leader’s words and actions.
- Avoid being exclusive. Build a values system of respect.
- Role models are powerful signals for junior practitioners. Model the best conduct you can, whether you are LGBTIQ or not.
- Simple actions and solutions can permeate a workplace with extremely positive outcomes.
- Colleagues and workers who are happy at work help to attract and retain more talent. Talent begets talent.
- Your colleagues have the right to feel safe and happy at work. If you find it challenging to accept a person’s sexuality or gender identity, consider working on understanding the issues and building empathy.
- Like the general population, some people are very private and don’t want to talk about these issues.

