

# Working with LGBTQIA+ Young People Policy

## Essential Summary

Building a culture of respect for all young people, their families and employees is one of YJNSW' key organisational values. Supporting the effective inclusion of lesbian, gay, bisexual, transgender, queer, intersex, and asexual (LGBTQIA+) young people is an important part of that culture of respect.

This policy has been developed in consultation with internal and external subject matter experts and LGBTQIA+ communities.

YJNSW supports and drives a workplace culture that prioritises the safety of children and young people, regardless of their individual characteristics, cultural backgrounds and abilities. We are a child-centered organisation in which children and young people feel genuinely empowered to speak up for themselves and others.

This policy recognises the importance of:

- respecting LGBTQIA+ young people's involvement in YJNSW policy, procedure, and project planning and acknowledging their individual circumstances throughout this process
- taking action to ensure unconscious bias is removed from policies and procedures
- raising awareness of LGBTQIA+ issues through education to promote respect and inclusion
- providing support through networks, information and resources.

This informs our work with LGBTQIA+ young people and includes:

- providing a safe space for LGBTQIA+ young people
- confidentiality
- information to Courts
- admission to a Youth Justice Centre and searching of LGBTQIA+ young people
- placement
- gender transition and medical support
- LGBTQIA+ supports

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Please refer to the [Operations Manual \(TOM\)](#) to check you have the latest version before using this document.

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# 1 Scope

This policy applies to all Youth Justice NSW employees.

# 2 Purpose

This policy provides YJNSW employees with some key definitions relating to LGBTQIA+ young people and provides guidance on good practice when working with LGBTQIA+ young people with two overarching objectives:

- LGBTQIA+ young people are kept safe and treated with respect
- YJNSW workplaces are inclusive and free from discrimination.

# 3 Definitions

Definitions and terminologies evolve.

The definitions in this policy have been agreed on as the best available at the time of release.

**Aromantic** refers to individuals who do not experience romantic attraction. Aromantic individuals may or may not identify as asexual.

**Asexual** is a person who can generally have little to no desire to engage sexually with someone.

**Bisexual** is an individual who is sexually and/or romantically attracted to people of the same gender and people of another gender. Bisexuality does not necessarily assume there are only two genders.

**Cisgender / Cis** describes people who identify their gender as the same as that presumed for them at birth (male or female). 'Cis' is a Latin term meaning 'on the same side as'.

**Coming out** means different things to different people. Generally, it is the process of recognising, accepting, and sharing both privately and publicly, one's own sexuality or gender identity. Coming out is not a single event, but rather a life-long process. There are many stages to coming out, and the process is unique to every individual. It is important to understand that the idea of coming out may not feel right for everyone. Some prefer to think of the process as inviting in, which highlights that a person has a choice as to with whom and when they share their sexuality or gender identity. Inviting people in is considered a more culturally appropriate alternative to coming out. If a young person decides to invite you into this part of their life, it is likely you have built a space where they feel comfortable enough to disclose and are confident that you will be supportive.<sup>1</sup>

**Direct discrimination** is treating another person less favourably on the basis of their sexual orientation, gender identity, or intersex status, than someone without that attribute in the same or similar circumstances.

**Gender identity** means the gender-related identity, appearance, or mannerisms or other gender-related characteristics of a person. This includes the way that people express or present their gender and recognises that a person's gender identity may be an identity other than male or female. Terms used to describe a person's gender

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<sup>1</sup> Twenty10 and Minus18

identity include trans, transgender, and gender diverse.

**Gay** refers to an individual who identifies as a man and is sexually and/or romantically attracted to other people who identify as men. The term gay can also be used in relation to women who are sexually and romantically attracted to other women.

**Gender** is part of a person's personal, cultural and social identity. Sometimes also termed 'gender identity', gender refers to the individual's concept of self as male, female, a blend of both or neither. It relates to how individuals understand and describe themselves, as well as how they are recognised within the community. Terms used to describe a person's gender identity may include female, male, trans, transgender, gender diverse, non-binary, or other terms.

**Gender Affirmation** (also known as gender transition) refers to the social, medical and/or legal steps that a person takes to affirm their gender, i.e., affirming a gender different to that of a person's birth-assigned sex. Gender affirmation can happen at any point in someone's life and is unique for everyone. Gender affirmation may or may not involve medical treatment, including surgeries or hormone therapy. Each person's gender affirmation is different and can include any combination of the following dimensions:

- Social affirmation is the process by which a person changes their gender expression to better match their gender. This may include changing their name, pronouns, and/or appearance<sup>1</sup>.
- Medical affirmation is the process by which a person changes their physical characteristics to align with their gender. This may include hormone therapy, surgery and other associated procedures.
- Legal affirmation is the process by which a person changes their identity documents, name, gender marker or both, to reflect their gender. This may include changing their gender marker on a passport and/or birth certificate or changing their name on documents such as a driver's license or bank card<sup>2</sup>.

**Gender Dysphoria** refers to discomfort or distress that is caused by a discrepancy between a person's gender identity and that person's sex assigned at birth (and the associated gender role and/or primary and secondary sex characteristics). Some gender nonconforming people experience gender dysphoria at some point in their lives. Many trans and gender diverse people do not experience gender dysphoria at all, and if they do, may cease with access to gender affirming healthcare and/or peer support.

**Gender Expression / Presentation** A person's gender expression refers to outward social markers a person expresses, including their name, outward appearance, and dress.

**Heterosexual** is an individual who is sexually and/or romantically attracted to the opposite gender.

**Homophobia** refers to negative beliefs, prejudices, stereotypes and fears that exist in relation to same sex attracted people. It can range from the use of offensive language to bullying, abuse and physical violence; and can include systemic barriers, such as being denied housing or being terminated from employment due to a person's sexual orientation.

**Homosexual vilification** is against the law. It is a public act that could incite hatred, serious contempt or severe ridicule towards people who are homosexual.

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<sup>2</sup> Any legal requirements related to changes in name and sex are defined under the Birth, Death and Marriages Registration Act 1995

**Indirect discrimination** is imposing, or proposing to impose, a requirement, condition or practice that has, or is likely to have the effect of disadvantaging people with a particular sexual orientation, gender identity, or intersex status, and which is not reasonable in the circumstances.

**Intersex** is an umbrella term that refers to individuals who have anatomical, chromosomal and hormonal characteristics that differ from medical and conventional understandings of male and female bodies. There are at least 40 different variations that may be apparent at different life stages or may remain unknown to the individual and their medical practitioners. Some people with an intersex variation are LGBTQ, many are heterosexual, and most are cisgender.

**Must** indicates a mandatory action to be complied with.

**Nonbinary gender** is an umbrella term for gender identities that sit within, outside of, across or between the spectrum of the male and female binary. A non-binary person might identify as gender fluid, trans masculine, trans feminine or could be agender (without a feeling of having any gender or having neutral feelings about gender).

**Pansexual** is an individual whose sexual and/or romantic attraction to others is not restricted by gender. Pansexuality can include being sexually and/or romantically attracted to any person, regardless of their gender identity.

**Plus (+)** is included to ensure that the LGBTQIA+ community is always inclusive of all identities.

**Queer** a common umbrella term used to mean anyone who is same gender attracted or gender diverse. It is a term used to describe a range of sexual orientations and gender identities. Although once used as a derogatory term and still considered derogatory by many older LGBTQIA+ people, the term queer now encapsulates political ideas of resistance to heteronormativity and homonormativity and is often used as an umbrella term to describe the full range of LGBTQIA+ identities.

**Should** indicates a recommended action to be complied with unless there are sound reasons for taking a different course of action.

**Transgender** a person whose gender is different to what was assumed at birth may consider themselves transgender or trans. A trans person might identify as male or female, or as non-binary or relate to terms such as gender fluid, genderqueer, bi-gender etc. Some women might use terms such as woman with a trans experience, trans woman or Male-to-Female (MtF) and some men might use terms such as man with a trans experience, trans man or Female-to-Male (FtM) to describe their lived experience, others do not. Additionally, Indigenous trans women might identify as Sistergirl; Indigenous trans men might identify as Brotherboy.

## 4 Working with LGBTQIA+ young people

YJNSW is committed to supporting all young people to feel included, safe and respected.

- YJNSW employees are required to adhere to DCJ Code of Ethical Conduct which protects employees and young people who identify as LGBTQIA+ from discrimination.
- DCJ Code of Ethical Conduct shares YJNSW core values of Respect, Integrity, Trust, Service and Accountability.
- All YJNSW employees must display these values when working with LGBTQIA+ young people, being respectful and courteous even in challenging situations.
- YJNSW employees must allow young people to discuss their sexual orientation, gender identity and relationship status as and when they choose.

To help young people feel comfortable to discuss their sexual orientation, gender identity and relationship status YJNSW employees must:

- Use inclusive language.
- Not presume gender or heterosexuality.
- Allow young people to confirm their gender status and their preferences as to titles and pronouns.
- Respect a young person's decision to disclose or not to disclose their sexuality or gender.

If a young person does discuss their sexuality, gender or relationship status with a YJNSW employee they should:

- Respond positively. Be aware that some young people may be unsure of their sexual orientation and gender while others may be in the initial stages of 'coming out' or 'inviting in'.
- Offer additional support for LGBTQIA+ young people who disclose experiences of homophobic prejudice or mental or physical abuse. Many LGBTQIA+ young people believe they will not be taken seriously or that prejudice and/or abuse towards them will be trivialised.
- Be aware of their own unconscious or conscious biases and how they may impact on their interactions with young people.
- Seek to improve their own knowledge to better support the young people they are working with (*see resources section of this policy*).

### 4.1 Providing a safe space for LGBTQIA+ young people

Some ways to create a safe space in Youth Justice sites for LGBTQIA+ young people include (but are not limited to):

- Displaying LGBTQIA+ posters

- Displaying Rainbow flags
- Displaying 'You're Welcome Here' stickers
- Having resources and information accessible for young people from LGBTQIA+ services

See *Resource section of this policy for more*

## 4.2 Confidentiality

The *Youth Justice Privacy and Personal Information Policy* provides clear direction for the collection, use, security, storage, disclosure and sharing of personal information that is consistent with current legal and policy requirements. This policy should be read in conjunction with the Department of Communities and Justice Privacy Management Plan.

YJNSW employees are required to comply with the Privacy and Personal Information Protection Act 1998 (PIIP Act NSW) and Health Records and Information Privacy Act 2002 (HRIP Act NSW) and adhere to the *Youth Justice Privacy and Personal Information Policy*.

The Policy is intended to ensure that personal information, held or obtained by Youth Justice NSW is dealt with by YJNSW employees appropriately, confidentially and with integrity while promoting the safety and wellbeing of young people, their families and the community.

YJNSW employees must not disclose the sexual orientation or the trans and gender diverse status of young people to other employees or third parties, including family or community members other than with the consent of the young person or in circumstances outlined in the *Youth Justice Privacy and Personal Information Policy*.

## 4.3 Record keeping

All records should note the young person's legal name, preferred name, and gender information on the Client Information Management System (CIMS).

Sexual orientation or the trans and gender diverse status of young people should not be disclosed to other employees or third parties, including family or community members other than with the consent of the young person or in circumstances outlined in the *Youth Justice Privacy and Personal Information Policy*.

A young person's preferred name and gender information must be updated in CIMS if requested by the young person or in response to young people providing updated information. (See *'Gender Affirmation' in Definition section*).

See *CIMS online help for step-by-step instructions on recording young people's gender in CIMS*.

## 4.4 LGBTQIA+ community supports and networks

YJNSW employees should help to support LGBTQIA+ young people develop a sense of community connection to overcome feelings of isolation and loneliness where appropriate by:

- Identifying local LGBTQIA+ services and networks as it may be helpful for LGBTQIA+ young people to meet and interact with other LGBTQIA+ people to discover more about themselves and feel a sense of community.
- Contacting services on behalf of young people or supporting young people to contact these services.
- Providing information about services that will provide satellite or digital supports in cases where there may not be a local area network or the young person prefers online supports and networks.

*This is particularly relevant in rural areas where young people report feelings of isolation, lack of social acceptance and lack of visibility.*

## 4.5 Practice Based Consultation

When working with LGBTQIA+ young people YJNSW employees will need to reflect on their own, perhaps unconscious, attitudes to sex, sexuality, and gender.

YJNSW employees can seek practice-based advice from the Practice and Implementation Team, your Senior Practice Officer or Aboriginal Practice Officer. They will be able to provide employees with support and/or consult on how to best approach specific situations and circumstances while being responsive to a young person's individual needs.

# 5 Information to Courts

LGBTQIA+ young people's risk of involvement in the criminal justice system has a strong correlation with personal circumstances characterised by high levels of homophobia which result in more time spent in public spaces. This increases the likelihood of being stopped and detained by police.<sup>3</sup>

Background reports should outline any circumstances where a young person's criminal behaviours are associated with their LGBTQIA+ status.

For example,

- if a young person experienced discrimination due to their LGBTQIA+ identity
- if a young person experienced social and familial isolation due to their LGBTQIA+ identity

Bail reports should outline any circumstances where a young person's bail options are affected by their LGBTQIA+ status.

For example,

- accommodation instability or options are affected by homophobia or transphobia

If a young person's gender or sexual identity is **not** relevant to their offending or accommodation options, it should **not** be included in court reports.

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<sup>3</sup> Richards, K., & Dwyer, A. (2014). Unspeakably present: the (un)acknowledgement of diverse sexuality and gender human rights in Australian youth justice systems. *Australian Journal of Human Rights*, 20(2), 63-79.

Prior to including LGBTQIA+ information in any communication even with courts the young person must provide informed consent. Young people's decision to disclose or not to disclose their LGBTQIA+ status to certain people or services must be respected (see 4.2 Confidentiality for further detail).

## 6 LGBTQIA+ young people in Youth Justice Centres

### 6.1 Searching young people

YJNSW *Searching Young People Policy* is to be followed when working with LGBTQIA+ young people.

Low radiation body scanners have been installed in Youth Justice Centres and two key children's courts which reduces the use of partially clothed body searches for young people in Youth Justice Centres.

A young person can choose to undertake a partially clothed search however the body scanners allow young people to remain fully clothed through the process which may be a less intrusive and traumatic option.

See '6.3 Body Scanner Search' of *YJNSW Searching Young People Policy* for full details.

### 6.2 Placement

YJNSW *Centre Placement Policy* is to be observed when considering placements within a Youth Justice Centre for LGBTQIA+ young people. This policy should be implemented in conjunction with consultation of the young person and a range of specialised delegates and expert YJNSW employees.

### 6.3 Gender affirmation

Young people must be supported in their gender affirmation.

In some cases supporting gender affirmation can be as simple as using their correct (i.e. their chosen / affirmed) name and pronouns. Gender affirmation may also be supported by a person's choice to seek medical support (see paragraph 6.4).

### 6.4 Medical support in a Youth Justice Centre

All medical support should use an individualised approach:

- for some individuals, medical support is only one part of gender affirmation
- some individuals never seek medical support in their gender affirmation, a trans or gender diverse person who hasn't medically or legally affirmed their gender is not 'less trans'.
- for some individuals, medical support can be a life-saving and essential component of a person's gender affirmation.

Young people in Youth Justice Centres are provided with psychological support through

access to a Youth Justice psychologist.

In some cases, a young person will present to a Youth Justice Centre having been prescribed specific medication, or they may be in the process of pursuing medical support to assist with their affirmation. These young people must be referred to a Justice Health practitioner for medical follow up.

The Justice Health & Forensic Mental Health Network (Justice Health) management of Transgender and Intersex Patients Policy notes that where a transgender patient has been prescribed Hormone Replacement Therapy (HRT) in the community prior to entering a Youth Justice Centre, HRT should be continued and appropriately managed by the Health Centre General Practitioner in consultation with the Clinical Director of Adolescent Health.

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<sup>3</sup> Pacey, M. S. (2016). Gender and sexual minority youth in nonmetropolitan communities: Individual- and community-level needs for support. *Families in Society: The Journal of Contemporary Social Services*, 97(2), 77- 85.

# 7 References

## 7.1 Legislation

- The [Sex Discrimination Act 1984](#) (SDA) prohibits discrimination on the basis of a person's sexual orientation, gender identity and intersex status. Further information can be found at the [Australian Human Rights Commission](#) website.
- The [Anti-Discrimination Act 1977](#) encourages the identification and elimination of discrimination, sexual harassment and victimisation and their causes, and promotes and facilitates the progressive realisation of equality.
- The [Australian Human Rights Commission Act 1986](#) promotes an understanding and acceptance of human rights in Australia and establishes compliance with any international Covenants, Declarations or other international instruments pertaining to human rights, to which Australia is a signatory.
- The [Universal Declaration of Human Rights](#) which is concerned with spiritual, public, and political freedoms such as freedom of association, thought, conscience, and religion.
- The [Convention on the Rights of the Child](#) which sets out the civil, political, economic, social, health and cultural rights of children.

## 7.2 Related YJNSW Policies

- [LGBTQIA+ inclusive practice on the Practice Portal \(Under development\)](#)
- [Searching Young People Policy](#)
- [Centre Placement Policy](#)
- [Court Report Writing Manual](#)
- [Privacy & Disclosure of Personal Information Decision Tree](#)
- [Youth Justice Privacy and Personal Information Policy](#)
- [DCJ Code Of Ethical Conduct](#)

## 7.3 Resources

The following resources are just a small selection of available tools and information. It is important to adopt an individualised approach and provide young people with a variety of options.

- The [DCJ LGBTQIA+ Playbook](#) contains essential content to expand your understanding.
- The [YJNSW LGBTQIA+ inclusivity at Youth Justice](#) provides relevant information and resources for working with LGBTQIA + young people.
- The Headspace "[Out-Spoken](#)" is a safe space for LGBTQIA+ young people to talk about challenges. This site provides young people from the LGBTQIA+ community all over Australia support with mental health and wellbeing.
- The ACON resource [A Language Guide: Trans and gender diverse inclusion](#) provides key terms and offers examples of language that can help build safer, more inclusive environments for trans and gender diverse communities.
- [Working therapeutically with LGBTI clients: a practice wisdom resource](#) is a

comprehensive manual, on page 38 there is a section relating to LGBTQIA+ young people.

- [Wear It Purple](#) strives to foster supportive, safe, empowering and inclusive environments for rainbow young people. Consider celebrating Wear It Purple Day with your team and young people check out their site for available resources.

The following sites provide a variety of social supports, LGBTQIA+ specific resources, case management, counselling etc. for youth under 25:

- [Twenty10](#)
- [Trans Hub](#)
- [Minus18](#)
- [Ygender Rainbow Network](#)
- [Opendoors Youth Services](#)
- [Freedom Centre](#)

## 8 Document information

<b>Title:</b>	Working with LGBTQIA+ young people policy
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## 9 Document History

Version	Date	Reason for Amendment
1	November 2018	New policy
2	June 2020	Reviewed to include new CIMS recording
3	May 2023	Reviewed to amend language