

Stonewall

ABOUT THIS RESOURCE

This resource is produced by Stonewall, a UK-based charity that stands for the freedom, equity and potential of all lesbian, gay, bi, trans, queer, questioning and ace (LGBTQ+) people.

At Stonewall, we imagine a world where LGBTQ+ people everywhere can live our lives to the full.

Founded in London in 1989, we now work in each nation of the UK and have established partnerships across the globe. Over the last three decades, we have created transformative change in the lives of LGBTQ+ people in the UK, helping win equal rights around marriage, having children and inclusive education.

Our campaigns drive positive change for our communities, and our sustained change and empowerment programmes ensure that LGBTQ+ people can thrive throughout our lives. We make sure that the world hears and learns from our communities, and our work is grounded in evidence and expertise.

To find out more about our work, visit us at www.stonewall.org.uk

Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)

Stonewall is proud to provide information, support and guidance on LGBTQ+ inclusion; working towards a world where we're all free to be. This does not constitute legal advice, and is not intended to be a substitute for legal counsel on any subject matter.

AUSTRALIA



Population: 23+ million



Stonewall Global Diversity Champions: 64

Stonewall
GLOBAL
DIVERSITY
CHAMPIONS



THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations.

Australia is classified as a Zone 1 country, which means sexual acts between people of the same sex are legal and clear national employment protections exist for lesbian, gay, and bi people.

Two further zones exist. In Zone 2 countries, sexual acts between people of the same sex are legal but no clear national employment protections exist on grounds of sexual orientation. In Zone 3 countries, sexual acts between people of the same sex are illegal.

FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

The Australian **Constitution** does **not explicitly guarantee rights to freedom of expression, association and assembly**.

The High Court of Australia has recognised a limited, **implied right of freedom of communication** in relation to political and governmental issues.

Each State and Territory permits **freedom of assembly and association**, subject to restrictions relating to public order, public health or public amenity.

Some States and Territories (New South Wales, Queensland, Victoria, the Australian Capital Territory and Tasmania) **prohibit vilification of LGBT** persons.

FAMILY AND RELATIONSHIPS

Sexual acts between people of the same sex are **legal**.

There is an **equal age of consent** for sexual acts regardless of gender.

Same-sex marriage is **legal** as a result of the law reform in December 2017, the Marriage Act 1961. **Overseas marriages** between same-sex persons are **automatically recognised** under Federal law.

Unmarried same-sex couples are **recognised as de-facto couples** under Australian Federal law, with **most of the same rights** as married couples.

Same-sex de-facto couples have **equal recognition** in respect of **taxation, social security, health** and other Federal government services.

Same-sex couples may also enter into **civil unions or domestic partnerships** in **some States and Territories** in Australia.

Same-sex couples have **equal rights to adopt** children in all States and Territories in Australia except the Northern Territory.

Trans people may enter into a **marriage with a person of either gender**.

By 9 December 2018, all States and Territories must **no longer ban married trans people** from **changing their gender** to that of their married spouse **without first divorcing**.

EQUALITY AND EMPLOYMENT

The Sex Discrimination Act 1984 **prohibits discrimination in employment** and certain areas of **public life on the grounds of sexual orientation, gender identity and intersex status**.

Some States' and Territories' sentencing legislation **treats crimes based on a person's sexual orientation** or because of hate towards a group of people as an **aggravating factor in sentencing**.

In **some States and Territories** it is a **criminal offence to incite hatred** towards, show serious **contempt** for, or severe **ridicule of, people** who identify as **LGBT**.

GENDER IDENTITY

Each State and Territory **allows trans people to change their legal gender and name on birth certificates and official registers**.

The **majority of States and Territories** only allow for the gender to be changed to 'female' or 'male' but **do not permit a person to change their gender to 'unspecified'**.

Passports can be **issued** with a person's **changed legal gender (including noting the gender as indeterminate/ unspecified)** under the Australian Passports Act 2005.

Each State and Territory, except the Australian Capital Territory, requires **medical intervention and medical evidence** to support an application to change a person's legal gender.

Intersex people in the **Australian Capital Territory** can **change their legal gender without medical intervention**.

If a person is **under 18 years** of age, the **Family Court must authorise any gender reassignment surgery**, even where there is parental consent to the treatment.

IMMIGRATION

The Migration Act 1958 enables **temporary and permanent residency of same-sex partners** of Australian citizens, residents and eligible New Zealand citizens.

A VIEW FROM AUSTRALIA

Mark Latchford is the associate director of Pride in Diversity, an organisation dedicated to LGBTI workplace inclusion. Pride in Diversity offers support, training and consulting to employers to further LGBTI workplace inclusivity. Pride in Diversity also publishes the Australian Workplace Equality Index (AWEI), and aims to tackle homophobia, biphobia and transphobia in sport and healthcare via its partner programmes, Pride in Sport and Pride in Health + Wellbeing.



What have been some recent legal developments for LGBT people in Australia?

In the last few years, the legal landscape for LGBTI rights in Australia has changed significantly. Discrimination on the grounds of sexual orientation, gender identity and intersex status is prohibited by federal legislation (as well as most state and territory laws). Same-sex conduct offences have been removed in all Australian jurisdictions – and there are some efforts to help erase historical criminal convictions. The partial defence of an unwelcome 'homosexual advance' to the charge of murder is no longer available. The greatest recent legal change has been the legalisation of same-sex marriage in December 2017. This was the result of 13 years of campaigning, as well as a postal survey that served as a non-binding referendum.

What's been the impact of the same-sex marriage postal survey?

The government promised it would pass the Same Sex Marriage Bill if the 'yes' vote was successful but would squash the bill if it was not. Although the 'yes' vote won with 61.6 per cent and marriage equality was passed, campaigns for the 'no' vote had a harmful effect on the LGBT community. Hurtful and wrong information was released as part of these campaigns. For example, one TV ad stated that boys would have to wear dresses to school if people voted 'yes'. The overall impact of the hate messages on the LGBT community will not be known for some time. However, a survey carried out by the Australian Institute, which included LGBT people, their friends and families, showed that almost 90 per cent of LGBTI people said that the campaign had a negative impact on them to some degree. For example, the number of LGBTI respondents experiencing depression, anxiety and stress increased by more than a third after the announcement of the postal vote. Almost 70 per cent of LGBTI people said they 'avoided' being with people in general at least some of the time as a method of coping. However, resilience and positive coping strategies were also evident. For example, 80 per cent of respondents participated in LGBTI-affirmative activities such as attending marches, raising awareness and displaying 'yes' or rainbow images.

What are the biggest barriers to inclusion in Australian society?

Although a lot of progress on LGBTI inclusion has been made in many major Australian workplaces, institutional barriers continue to exist in sport, health and other human/social services. As an example, the recent Out on the Fields research indicated that 80 per cent of participants witnessed or experienced

homophobia in sport (both LGB and non-LGB participants). It is for this reason that Pride in Diversity has expanded its scope to specifically target these areas. We launched Pride in Sport in March 2016 and in 2017 we'll launch a programme dedicated to health.

What is the workplace like for LGBT people in Australia?

Although direct and indirect discrimination against LGBTI people in the workplace is generally prohibited by federal legislation for all employers (there are some religious exemptions), there is still a lot of work to be done in engaging employers in LGBTI workplace inclusion. The 2017 AWEI benchmarked 116 employers nationally and saw 16,759 employees respond to the accompanying employee survey. The number of employees out in the workplace is often an indicator of an organisation's inclusivity. However, the survey showed that fewer lesbian, gay and bi people were open about their sexual orientation in the workplace than in previous years. Respondents working at those organisations active in inclusion were more likely to be out (77 per cent) than those working at organisations new to inclusion (64 per cent).

What can employers do to support their LGBT employees and the LGBT movement in Australia?

There are many social barriers to inclusion for LGBTI people in Australia. Young people in our community are exposed to these barriers from a very early age, including through political discourse and messaging in the media, which can influence the behaviour of their peers in schools. Accordingly, workplaces trying to build an LGBTI-inclusive culture, have to address the impact of these social disadvantages in order to make a real difference to the lived professional experience of their LGBTI staff. This involves first learning about how these social barriers have an impact on people's professional lives. It also means creating specific structural initiatives that support LGBTI staff in very explicit terms.

Part of the training that we offer through Pride in Diversity helps workplaces to understand why ambiguous messaging can reinforce the reluctance of LGBTI people to bring their full selves to work. Once these foundational steps have been taken, workplaces that have experienced a lot of success in this space have entered into a phase of meaningful engagement with the LGBTI community, in order to understand how they can best support their staff and input into important LGBTI causes that have wider relevance.

LGBT INCLUSION IN THE WORKPLACE

THE FOUNDATIONS

There are several steps employers can take to start creating a supportive workplace environment for their LGBT employees in Australia:

-  **Consult local LGBT organisations to understand the local context for LGBT people**
-  **Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies**
-  **Train HR staff and promote inclusive policies**
-  **Carry out LGBT-inclusive diversity training**
-  **Encourage senior managers to promote their commitment to LGBT inclusion and equality**

NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

-  **Audit and extend equal benefits to LGBT partners**
-  **Establish employee engagement mechanisms like LGBT networks and allies programmes**
-  **Carry out LGBT awareness-raising events**
-  **Partner with local LGBT groups to advance LGBT equality beyond the workplace**
-  **Work with suppliers and partners to advance LGBT workplace equality**

Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. www.stonewall.org.uk/gwei



LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

Pinsent Masons Pinsent Masons believes everyone should be fully equal in the workplace. Within months of the opening of Pinsent Masons' new offices in Melbourne, Sydney, and Perth in 2016, the firm's commitment to LGBT equality was confirmed by its new team and communicated locally. Shortly after the launch, head of Pinsent Masons in Australia and senior ally, David Rennick, publicly stated the firm's support for the marriage equality campaign with an open letter published by the Australian Marriage Equality Organisation. More recently, David communicated to the office the firm's position on diversity and inclusion, providing a link to support employees through the marriage equality debate and vote at the time. Allies at Pinsent Masons make a commitment to championing LGBT equality across the business, working together to create a culture where everyone is equal. With senior-level support from two partners in Australia, Pinsent Masons successfully rolled out a global ally initiative with a poster campaign in Melbourne and Sydney. This raised the profile of the programme among colleagues and encouraged new members to join. Allies in the Australian offices are visible on a day-to-day basis, identified with rainbow mugs on their desks and profiled on the firm's intranet to help clearly demonstrate their support for the initiative. In 2015, during a secondment to the firm's Australian offices, one of the firm's London-based LGBT network representatives established a relationship between Australian allies and Pride in Diversity, an Australian organisation seeking to promote sexual orientation and gender identity diversity in the workplace. Pinsent Masons remains represented at their roundtable discussions with other prominent organisations in Australia. In 2016, the firm's Melbourne and Sydney offices participated in a new LGBT-inclusive webinar training course on unconscious bias, and in 2017, completed a compulsory LGBTI awareness session. This training now runs annually for all new starters. The three offices also actively participate in the firm's annual Diversity Week event.

Allen & Overy A&O, Allen & Overy's global LGBT staff network, aims to create an equal and inclusive workplace for LGBT employees across the world. The chapter in Australia plays a key part in contributing to global initiatives and driving change locally and across the Asia Pacific region. With visible support from the firm's regional managing partner, A&O host events in support of LGBT equality and shares best practice by taking part in networking and round-table events with other businesses and LGBT groups. In 2016 the firm formally launched their global allies programme to increase the level and visibility and support for their LGBT colleagues. The initiative has been hugely popular and the firm now have over 700 allies globally. In the Sydney office the reception area boasts an 'ally wall' where allies can pledge their support for the LGBT community. The wall is a way of raising the visibility of the network to staff members and visitors and encouraging new members to sign up. Rainbow flags and branded coffee mugs for LGBT staff and allies also make support in the office evident and colourful. A partnership with a local LGBT organisation, Pride in Diversity, help Allen & Overy get a better understanding of the local context for LGBT people. Training has been key to Allen & Overy's success. Internal practices have been improved thanks to Pride in Diversity's face to face and online training sessions and, as an active member of the Diversity Council of Australia, the firm has benefited from training sessions and webinars on LGBT equality topics.



GET INVOLVED



THE ANNUAL LGBT CALENDAR

January / February – Midsumma Festival. www.midsumma.org.au

February / March – Sydney Gay and Lesbian Mardi Gras.
www.mardigras.org.au

March – Brisbane Queer Film Festival. www.bqff.com.au

Check the events websites for the most up-to-date information on dates.

September – Alice Springs Pride Carnivale.
www.facebook.com/AliceSpringsPrideCarnivale

October – Feast Festival Adelaide www.feast.org.au



FIND LGBT GROUPS AND COMMUNITIES

Diversity Council Australia – a membership organisation for diversity and inclusion in the workplace. www.dca.org.au

Gay & Lesbian Rights Lobby – a group working to advance equality of the LGBTIQ community, providing referral and educative resources to the media, policy makers and the LGBTIQ community. www.glrll.org.au

Kaleidoscope Australia Human Rights Foundation – an organisation working to advance LGBTIQ rights in the Asia Pacific region through shadow reporting, awareness raising and capacity building with local communities. www.kaleidoscopeaustralia.com

National LGBTI Health Alliance – an alliance for groups and individuals focused on health issues within the LGBTI community, offering a range of training and professional development opportunities to its members. www.lgbtihealth.org.au

Pride in Diversity – an organisation dedicated to LGBTI workplace inclusion, offering support, training and consultation to employers. www.prideindiversity.com.au

Switchboard Victoria Incorporated – a volunteer organisation providing telephone counselling and information services for LGBTI people. www.switchboard.org.au

Zoe Bell Gender Collective – a Melbourne-based group providing support, information and educational seminars for trans and gender-diverse communities. The collective also acts as a network for trans people to advertise rooms, events and groups to one another. www.zbgc.com.au



GET LOCAL LGBT NEWS

Lesbians on the loose – an online magazine for lesbian, bi and queer women. www.lotl.com

QNews – an LGBTIQ lifestyle magazine from Queensland. www.qnews.com.au



STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 64 ORGANISATIONS OPERATING IN AUSTRALIA.

Our team of workplace advisors offers tailored one-to-one advice on how to create LGBT-inclusive workplaces globally. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact Stonewall.

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Every effort has been made to ensure that the information contained in this Global Workplace Briefing is correct as of July 2018. Introducing any new initiative requires careful consideration and the safety of staff should always be of paramount importance. This overview is for guidance purposes only and does not constitute, nor should it be interpreted as a substitute for, detailed legal advice. If you have any specific legal concerns, always consult with local legal experts. Stonewall Equality Ltd, Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)