

2021 Code Review  
% PO Box H218  
Australia Square  
New South Wales, 1215

**Via email:** [submissions@bankingcodereview.com.au](mailto:submissions@bankingcodereview.com.au)

**CC:** [Rene van de Rijdt, Acting CEO, Banking Code Compliance Committee](mailto:Rene van de Rijdt, Acting CEO, Banking Code Compliance Committee)  
[info@codecompliance.org.au](mailto:info@codecompliance.org.au)

6 August 2021

Dear Mr Callaghan,

**Re: Banking Code of Practice Review 2021**

Thank you for the opportunity to provide feedback to the Banking Code of Practice Review.

The Victorian Pride Lobby is a community based advocacy group that works towards equality, social justice and advancing human rights for lesbian, gay, queer, bisexual and same-gender attracted Victorians.

We do not speak in the place of trans and gender diverse, intersex and asexual community members, but rather work constructively, cooperatively and respectfully with transgender, intersex, asexual and other community organisations to achieve social change for the LGBTIQ+ community.

Our submission draws from our report, *Pride and Power: Victorian LGBTIQ+ experiences with essential services and banks*. Our report details a diverse variety of experiences. For some consumers, being treated with disrespect is an everyday occurrence. For others, most of their experiences of mistreatment are decades old, but that past mistreatment has built an ongoing distrust.

We are comfortable with this submission being made public. We welcome any opportunity to work together to respond to the needs of LGBTIQ+ consumers and create equitable and inclusive banking services.

Yours sincerely,

**Nevena Spirovska and Evie Potter**  
Co-Convenors, Victorian Pride Lobby

### **Has the Code contributed to banking services being inclusive, affordable, and accessible to all customers?**

The Banking Code of Practice has not contributed to banking services being inclusive, affordable and accessible for LGBTIQ+ customers. That is because there is no specific mention of LGBTIQ+ customers in the Code.

### **Does the Code meet consumer and community standards for banks to support customers experiencing vulnerability?**

Part four of the Code states that banks will undertake to:

- take extra care with customers who are experiencing vulnerability;<sup>1</sup>
- be respectful of *vulnerable* customers' need for confidentiality;<sup>2</sup>
- try and make it easier for *vulnerable* customers to communicate with banks;<sup>3</sup>
- provide appropriate guidance and referrals to help *vulnerable* customers maintain, regain or control their finances;<sup>4</sup>
- train staff to treat *diverse* and *vulnerable* customers or customers that appear to be vulnerable with sensitivity, respect and compassion;<sup>5</sup>
- refer *vulnerable* customers to external support, if appropriate.<sup>6</sup>

The examples of *vulnerability* include:

- age-related impairment;
- cognitive impairment;
- elder abuse;
- family or domestic violence;
- financial abuse;
- mental illness;
- serious illness;
- any other financial circumstance causing significant detriment; or
- any other personal circumstance causing significant detriment.<sup>7</sup>

There are no examples of *diversity*.

it is important that the vulnerabilities of lesbian, gay, bisexual, trans and gender diverse, intersex, queer, and asexual (LGBTIQ+) consumers be taken into account in the Code.

---

<sup>1</sup> Australian Banking Association, *Banking Code of Practice* (2020) clause 38.

<sup>2</sup> Australian Banking Association, *Banking Code of Practice* (2020) clause 41(a).

<sup>3</sup> Australian Banking Association, *Banking Code of Practice* (2020) clause 41(b).

<sup>4</sup> Australian Banking Association, *Banking Code of Practice* (2020) clause 41(c).

<sup>5</sup> Australian Banking Association, *Banking Code of Practice* (2020) clauses 33 and 39.

<sup>6</sup> Australian Banking Association, *Banking Code of Practice* (2020) clause 41(d).

<sup>7</sup> Australian Banking Association, *Banking Code of Practice* (2020) clause 38.

In our attached report, *Pride in Power: Victorian LGBTIQ+ experiences with essential services and banks*, we set out to redress the limited research on and recognition of the unique experiences and vulnerabilities of LGBTIQ+ consumers accessing essential services, including banks. The limited research that there is on LGBTIQ+ consumer vulnerability suggests that “nonconformity frequently equals invisibility.”<sup>8</sup>

The vulnerability that LGBTIQ+ consumers experience can be compounded by *situational-based factors*, which are captured in the Code, including family violence, elder abuse, mental health issues or financial stress.

Other factors impacting vulnerability can include *identity-based factors*, some of which are not captured in the Code, such as disability and speaking languages other than English, and others which are not, such as having low literacy or digital literacy or being a new migrant.

Finally, factors impacting vulnerability can include *state-based factors*, some of which are captured in the Code, such as illness, and some of which are not, such as bereavement, natural disaster or pandemic.

### **Could the Code be strengthened in terms of helping to ensure that services are inclusive and accessible and vulnerable customers are appropriately supported?**

The Code could be strengthened by including sexual orientation, gender identity and intersex status as examples of vulnerability in clauses 32 and 38 of the Code.<sup>9</sup>

When we talk of vulnerability, it is important to remember that it is not a person’s sexual orientation, gender identity or intersex status that is the reason for their disadvantage, but rather the failure of banking institutions and wider society to ensure that everyone has equal access to services and equal rights. This marginalisation can fuel stigma.

Classifying LGBTIQ+ customers as vulnerable customers will ensure that banks are obliged to train staff to treat LGBTIQ+ customers with sensitivity, respect and compassion. There is some evidence that banks are already training frontline customer service representatives to identify vulnerable customers.<sup>10</sup> However, there has been a marked increase in breaches of the Code concerning inclusivity, accessibility and taking care with vulnerable customers.<sup>11</sup>

---

<sup>8</sup> Kim McKeage, Elizabeth Crosby and Terri Rittenberg, ‘Living in a gender-binary world: Implications for a revised model of consumer vulnerability’ (2018) 38(1) *Journal of Macromarketing* 74.

<sup>9</sup> Australian Banking Association, *Banking Code of Practice* (2020) clauses 32 and 38.

<sup>10</sup> Banking Code Compliance Committee, *Banks’ Compliance with the Banking Code of Practice: January - June 2020* (2021) 20.

<sup>11</sup> Banking Code Compliance Committee, *Banks’ Compliance with the Banking Code of Practice: January - June 2020* (2021) 21.

The Banking Code of Compliance Committee is currently conducting an inquiry into banks' compliance with these provisions. The report of that inquiry is now overdue and is important to determine whether banks are taking extra care with vulnerable customers.

Concerningly, the Code says nothing about discrimination. The Australian Human Rights Commission says that finance companies should understand their legal obligations under anti-discrimination law and adopt, implement and integrate human rights policies that are consistent with these obligations.<sup>12</sup> Of particular concern to us is the Australian Financial Complaints Authority's recent determination that a bank may wholesale exclude escort services on the basis of risk or "corporate values".<sup>13</sup> Such determinations should be based on evidence not prejudice. Arbitrary determinations such as this can impact people's access to banking services and fuel distrust amongst diverse customers.

There are two possible ways, amongst others, to address this: (a) the Code should include a clear assurance that banks will not discriminate, including against LGBTIQ+ people and lawfully-operating sex workers; and/or (b) the Code should include an obligation to provide banking services to any lawful business.<sup>14</sup>

The Code should also define what it meant by "diverse customers", as it appears in clause 33 of the Code.<sup>15</sup> Without definition, the term is vague and may be wrongly interpreted to only include people from a non-English speaking background. We suggest that LGBTIQ+ customers be included in such a definition.

### **Should the Code include more specific undertakings regarding the steps that banks will implement so that services are inclusive and accessible to all customers?**

The consultation note rightly acknowledges that "many of the commitments regarding providing inclusive and accessible banking services to specified customers are general – such as the commitment to being inclusive and accessible and taking extra care – rather than specific, measurable steps that the banks are committed to implementing."

The Code should include more specific undertakings so that services are inclusive and accessible to all customers, including:

---

<sup>12</sup> Australian Human Rights Commission, *The Australian Finance Sector and Human Rights* (2014) 3.

<sup>13</sup> Australian Financial Complaints Authority, *Determination 687972: National Australia Bank* (2020).

<sup>14</sup> For further discussion of discrimination against lawfully-operating sex workers, see Eros Association, *Financial Discrimination Against Adults-Only Businesses* (2017) and Australian Small Business and Family Enterprise Ombudsman, 'Banks assume the role of moral compass for legitimate businesses' (11 September 2019).

<sup>15</sup> Australian Banking Association, *Banking Code of Practice* (2020) clause 33.

- expanding those sections of the Code regarding complaints for customers experiencing financial difficulty,<sup>16</sup> to also include a requirement to provide clear guidance to customers on how to progress complaints concerning discrimination, including on the grounds of sexual orientation, gender identity or intersex status (as discussed above), both internally and externally;
- providing an assurance that banks will provide simple and comprehensive processes for changing customer's name, gender, title and relationship status in line with the recommendations in the *Pride and Power* report.

We would be happy to provide specific wording for such clauses.

**Do banks take a broad approach to ensuring their products and services are sufficiently inclusive or accessible, or is it largely focused on physical aspects of accessibility, such as branch set up?**

The *Pride and Power* report shows that:

- 23% of survey respondents had been treated poorly by a bank on the basis of their sexual orientation, gender identity or intersex status;
- 20% had ill-informed statements made in their interactions with a bank;
- 11% had been asked intrusive questions;
- 21% had to provide excessive evidence to a bank to change their name or gender; and
- 22% had to repeatedly disclose a former name or gender.

This suggests that many banks are not taking a broad approach to ensure their products and services are sufficiently inclusive and accessible to LGBTIQ+ customers.

There is also a need to address the human rights impacts of the increasing use of artificial intelligence in bank decision-making.<sup>17</sup>

**Should the Code incorporate some of the provisions in other codes of conduct (such as the 2020 General Insurance Code) that cover dealings with vulnerable customers?**

The Lobby is currently scoping a report into LGBTIQ+ experiences with insurance providers. If and when that is finished, we would be happy to share the results with you.

---

<sup>16</sup> Australian Banking Association, *Banking Code of Practice* (2020) clauses 41(c), 174 and chapter 47.

<sup>17</sup> Australian Human Rights Commission, *Human Rights and Technology: Final Report* (2021).



**Victorian Pride Lobby**

# **Pride and Power**

Victorian LGBTIQ+ experiences with essential services and banks

<b>Introduction</b>	<b>3</b>
<b>Legislative context</b>	<b>5</b>
<b>Equal Opportunity Act</b>	<b>5</b>
<b>Electricity, gas and water suppliers</b>	<b>6</b>
<b>Poor treatment and service refusal</b>	<b>6</b>
Recommendations	7
<b>Excessive evidence and repeated disclosure</b>	<b>7</b>
Recommendations	8
<b>Banks and financial services</b>	<b>9</b>
<b>Poor treatment</b>	<b>9</b>
Recommendations	10
<b>Service refusal</b>	<b>11</b>
Recommendations	11
<b>Excessive evidence and repeated disclosure</b>	<b>11</b>
Recommendations	13

# Introduction

**The Victorian Pride Lobby has conducted an online survey of 100 lesbian, gay, bisexual, transgender, intersex, queer, and asexual (LGBTIQA+) community members about their experiences with electricity, gas and water suppliers and banks.**

What we set out to do is redress the limited research on and recognition of the unique experiences and vulnerabilities of LGBTIQA+ consumers accessing essential services or banks. When we talk of vulnerability, it is important to remember that it is not a person's sexual orientation, gender identity or intersex status that is the reason for their disadvantage, but rather the failure of institutions and wider society to ensure that everyone has equal access to services and equal rights when dealing with service-providers. This vulnerability can be compounded for LGBTIQA+ people experiencing family violence, elder abuse, mental health issues, financial stress or other forms of trauma. Other factors impacting vulnerability can include identity-based factors such as disability, speaking languages other than English, having low literacy or digital literacy or being a new migrant, as well as situational-based factors such as bereavement, illness, natural disaster or pandemic.

What we have heard from our survey is a diverse variety of experiences. For some, being treated with disrespect is an everyday occurrence; it is something that happens regardless of service provider. For others, most of their experiences of mistreatment are decades old, but that past mistreatment has built an ongoing distrust that impacts how they approach service providers now. This was particularly true for older LGBTIQA+ people and either prevented them from accessing services when they needed them or expecting a lesser quality of service if and when disclosing their sexual orientation, gender identity or intersex status. For some, they choose simply not to disclose.

Heteronormative assumptions are still incredibly common for people in same-gender relationships. As one person told us:

*As a lesbian having been married for nearly 15 years, in nearly all interactions with banks, suppliers, businesses, etc. there is an assumption that I have a husband! I always refer to my partner and people always assume I must mean husband. I know it's not the end of the world but having to explain my relationship status endlessly is tedious.*

The experiences of trans and gender diverse people were particularly striking. Some people have had relatively positive experiences when it came to changing their name or gender, including service providers that have proactively changed customers' titles when updating their gender. For some, it depended upon the service provider. As one person told us:

*My bank took all of five minutes to change the details... An energy provider sent me an email actually complimenting me on the name change.*

However, others told us that they had to kick up a fuss in the face of requests to provide documentation that, in some cases, simply did not exist. In certain instances, the ease of changing a name or gender depended on 'passing privilege'. As one person explained:

*I changed my gender at the bank in person and electricity and gas by calling up, and with both I said there was a mistake and I should be male and then when they saw me 'passing' as male in person or my voice was distinctly male on the phone they assumed it was a clerical error and fixed it easily. I acknowledge this shouldn't be the way and not everyone has that privilege.*

This should not be the norm and banks and services providers must strive to do better for their customers. Trans people should be able to change their details with ease and respect, and without the need to go to extreme lengths to prove their name or gender.



In some situations, service providers do not enable customers to list their preferred name, do not let them list a non-binary gender, and do not provide options for non-gendered title. People told us that when services are flexible, provide options for preferred names, and not require a binary gender or gendered title, it makes customers' interactions with them more positive. Service providers also need to think through why they are collecting this data. As one person said:

*What difference does it make to my bank or electricity company if I am a man, a married woman or define myself as something outside of these narrow, binary, societal constructs?*

Even when a person is able to navigate the system to change their name or gender, they can still experience being dead-named or misgendered. Dead naming means using a birth or former name (i.e. a name that is dead). Misgendering means using a gender that does not match a person's gender identity. Both of these actions can be triggering for trans and gender diverse customers.

It is clear that banks and essential service providers need to overcome these barriers if they want to provide truly inclusive services. It is not enough to simply respond to issues after they arise; banks and essential service providers must design their services in an inclusive manner that proactively addresses issues before they arise. Interventions that may be subtle or imperceptible to general consumers, such as updating visual marketing to include same-gender couples or including more diverse options for people's titles in drop-down menus, can still be effective for LGBTIQ+ consumers. As we discuss in the next section, LGBTIQ+ people have the right to equality and should be fully included in all service provision.

When LGBTIQ+ consumers are aware of their rights and essential service providers and banks respect and promote LGBTIQ+ consumers' rights, we can achieve economic and social inclusion and wellbeing.

# Legislative context

## Equal Opportunity Act

**The concept of equality is at the heart of anti-discrimination law.**

There are two main strands to equality: formal equality and substantive equality.

*Formal equality* is the idea that everyone should be treated the same - or at least not treated unfavourably - because of a protected attribute such as their sexual orientation, gender identity or intersex status. Formal equality is embodied in the prohibition against direct discrimination. Direct discrimination is unfavourable treatment based on a person's sexual orientation, gender identity or sex characteristics. An example of direct discrimination is refusing to provide a service to a person because they are gay.

*Substantive equality* recognises that treating all people the same can in certain circumstances lead to disadvantage or poorer outcomes for some people because of certain attributes such as their sexual orientation, gender identity or intersex status. Substantive equality is embodied in the prohibition against indirect discrimination. Indirect discrimination occurs when an ostensibly equal requirement, condition or practice is imposed that has the effect of disadvantaging certain people or groups and is not reasonable. An example of indirect discrimination is imposing a requirement on all employees that they must wear business attire which matches their sex assigned at birth, which would disadvantage transgender people.

The *Equal Opportunity Act* prohibits both direct and indirect discrimination in the provision of goods and services and in employment, recruitment and contracting. It also imposes a duty on service providers and employers to eliminate discrimination as far as possible.

The Act makes it unlawful to discriminate by reason of certain protected attributes or characteristics, including sex, marital status, lawful sexual activity (which includes lawful sex work), sexual orientation, gender identity, and - as of 2022 - sex characteristics (which includes intersex status). Discrimination based on an attribute also includes discrimination on the basis of a characteristic that a person with that attribute generally has or a characteristic that is generally imputed to people with that attribute. For instance, it is unlawful to discriminate against a gay person on the basis that they have married their same-gender partner, even if this is based upon an opposition to same-gender marriage rather than to homosexuality *per se*.

Organisations can still take special measures or affirmative action. This can include special programs targeted at the needs of a vulnerable group, such as seeking out LGBTIQ+ applicants for a particular role to ensure greater visibility and representation.

It is important that essential service providers and banks know their legal obligations and, in the performance of their functions, do not discriminate against LGBTIQ+ people. Preferably, essential service providers and banks should think proactively about how to better include the needs and human rights of LGBTIQ+ people in their work. Promoting LGBTIQ+ inclusive practice can help minimise legal liability and foster a more inclusive culture.

# Electricity, gas and water suppliers

## Poor treatment and service refusal

**7% of survey respondents told us that they had experienced poor treatment or ill-informed statements in their interactions with an electricity, gas or water supplier on the basis of their their sexual orientation, gender identity or intersex status, but only 1% had been refused service on this basis.**

Customers in same-gender relationships reported being commonly sent correspondence addressed to 'Mr and Mrs'. Some suggested that this seems to be the default when there are two people on the account because they have experienced this with many providers. For some same-gender attracted people, their experiences of mistreatment were even more blatant. As one person told us:

*Gas mains were being repaired and workmen came onto the property. I asked them if they would like a cold drink, as it was hot, to which they said no. However, as I walked inside, I heard laughing and the younger guy commented about turning into a poof if he drank water from a lezzo. I turned around, went up to him and asked him to repeat what he just said to my face and, of course, he tried to deny he had said anything, so I kicked them off my property and refused that team access again. They sent back a different team who I did not go near. It's typical of treatment in the country.*

For some same-gender attracted people, poor treatment and harassment based on sexual orientation can make them scared to access services.

Trans and gender diverse customers reported constant issues and having to deal with rude staff when trying to change the title or gender that appears on their bills or records. As one person explained:

*I have been told that I had to choose Ms and Female from drop down menus on websites and in system databases, when that is not how I identify. 'Mr, Mrs, Ms, Miss' offers not non-gendered options and the order isn't even alphabetical – it's in some archaic notion of citizen value with the man being first and a single young female being last – this is saying that men are more valuable than women, especially unmarried women who are not connected to a man.*

Another person told us about their experience of changing their name:

*When I bought my house, they set up a water account for me under my dead name. I asked to have this changed but they said they couldn't and I needed to write in a letter with supporting documentation for this and I decided not to bother. They changed my gender title to Mr instead which was nice but my name is still there... Being dead named for other people can be triggering. As well as misgendered. I think it was nice they at least changed my gender title.*

Whilst this respondent's experience was not unpleasant, some respondents reported that staff seemed to have little sensitivity, a lack of care or personal prejudices that affected their interactions with LGBTIQ+ customers. For those customers, particularly trans and gender diverse customers, that experienced poor treatment or ill-informed statements, they understood that many people just do not know how to react to having a different name that may not be the same as the name on legal documents. However, the lack of understanding on the part of some service providers was still quite frustrating. Customers should be able to expect sensitive and inclusive service provision.

General research suggests that vulnerable consumers, including LGBTIQ+ people, are less likely to seek access or support when experiencing disadvantage, in part due to a history of stigmatisation and disempowerment. This means that LGBTIQ+ consumers experiencing disadvantage may not seek or get the help that they need. This will, in turn, impact customer trust and satisfaction with their energy, water or gas supplier.

## Recommendations

- Frontline staff should receive training on LGBTIQ+ inclusivity, underpinned by staff policies that include a zero tolerance approach towards and positive actions to tackle discrimination, bullying and harassment of LGBTIQ+ workers or customers.
- Service providers and regulators should provide clear guidance to customers on how to progress complaints concerning discrimination on the grounds of sexual orientation, gender identity or intersex status so that consumers know and can access their rights.

## Excessive evidence and repeated disclosure

**4% of survey respondents told us that they had to provide excessive evidence to an electricity, gas or water supplier to prove their relationship status or change their name or gender, and 9% were required to disclose a former name or gender repeatedly.**

Customers questioned why service providers would need to collect information on gender, relationship status or historical information on either.

For those that did want to change their name, they reported having to provide legal documents and having a dead name remaining on file even when their name was changed. One respondent reported that they had to provide legal documents to change their name and that their preferred name was listed as a nickname to take the place of their dead name. Customer service representatives reacted poorly when informed that the customer had a different name than that which was on their legal documents, which caused them frustration. Another person told us that a customer service provider would read out their old name whenever they called to ask the service provider to remove the title against their name. As another of our respondents explained:

*I contacted them to update my name and title and followed the instructions given. I was informed my details had been changed, and have since received emails with the correct name. My account, however, has not been updated and still bears my old name and title. I have sent two enquiries to try to update this without response, and will now have to call and dead name myself yet again to identify my account.*

Incidents such as these can cause emotional distress for trans and gender diverse customers.

## Recommendations

- Essential services providers should review their practices regarding name changes to ensure that:
  - such processes are as simple as possible;
  - dead-names are removed from all records; and
  - all systems are updated.
- Essential services providers should review their practices regarding gender and:
  - only collect and use data on gender where required;
  - include non-binary options for genders;
  - ensure that the process for changing gender is simple and comprehensive; and
  - not default to certain genders based on assumptions about a person's gender.
- Essential services providers should review their practices regarding titles and:
  - only use titles where required;
  - include non-binary options for titles;
  - ensure that the process for changing titles is simple and comprehensive; and
  - not default to certain titles based on assumptions about a person's gender or relationship status.
- Essential services providers should only collect and use data on relationship status where required.
- Essential service providers should consider whether a case management approach is required to ensure that a customer who is changing their name, gender or title need only speak to one customer service representative.

# Banks and financial services

## Poor treatment

**23% of survey respondents told us that they had been treated poorly by a bank on the basis of their sexual orientation, gender identity or intersex status, 20% told us that ill-informed statements had been made in their interactions with a bank, and 11% had been asked intrusive questions.**

For some, the experience of mistreatment by banks and loan providers is historical. As one person told us:

*Decades ago, I couldn't have my partner on the loan to buy a house. I had to set up a separate trust agreement that the bank didn't know about.*

However, for many the mistreatment continues to the present day. It is exemplified in websites that have images at the top of each page depicting happy different-gender couples but not same-gender ones. This was especially so for trans and gender diverse people. Some told us that staff made an effort to be sensitive and kind, but they just had poorly designed systems. Others experienced horrible customer service coupled with poor systems that representatives tried to excuse.

Name changes were an issue, with some reporting that it was difficult to change their names even if they had all the correct documentation. In these situations, it was evident that the lack of training of staff was a contributing factor as well as systems issues. In some cases, respondents were told that they just needed to accept that they could not change their name, ever.

Gender was also an issue. Some reported that their bank made it difficult for them to update their gender because of the lack of training for general staff and because specialist staff were unavailable. Many reported that their bank does not allow for non-binary people to have their gender correctly recognised, including through the use of "X". Others reported that experiences of being misgendered over the phone led to them refusing to ring or accept calls from their bank. Misgendering occurred for some even after their name was changed on their record. In some cases, customers' birth names were kept on files that all staff would have access to.

Titles were also a recurring issue. Some reported that their bank refused to change or remove the old title on their bank account unless they brought in documentation to prove a name change, even if the customer had not changed their name. Other reported non-binary options, such as "Mx", not being available or being compelled to use a title when they did not want to. Even when a title was changed, some customers reported titles appearing inconsistently across different accounts and receiving mail under their previous title by mistake. This occurred even when assurances were provided that the record had been updated. This means that customers have to repeatedly request updates.

This is exemplified in one particularly shocking story:

*I attempted to change my name and title after legally changing it. I went into a branch to update my name but the staff didn't know how to do what I needed. Four of them had a 15 minute discussion within my hearing and in an open-plan and busy office in which they referred to me as a 'she-he, whatever', 'old-name-new-name' and talked about how weird and unusual it was to change someone's title or record of gender on the system. Several staff then walked by the open cubicle where I was sitting, clearly staring at me. Staff then refused to change my name because of a lack of correct paperwork (I had every ID document I owned with me, including my new birth certificate and copies of all of my old ID, which matched their records). I lodged a complaint, which was also poorly handled. I was told the problem would be resolved within a few days and I would receive a call back to confirm. No one ever called me. It took a month, four phone calls, three hours waiting on hold and eventually threatening to take the matter to the Equal Opportunity and Human Rights Commission just to speak to the person 'managing' my complaint. I was repeatedly mis-gendered and dead-named by staff after*

*I had informed them of my correct name, title and pronouns. They initially insisted the problem was purely a staff error before eventually admitting that their policy was actually discriminatory and had been changed in response to my complaint. It took over a month to update details that a cisgender person would have been able to update on the spot.*

Often, ill-informed statements can be made because customer service representatives simply do not understand transgender identity. This can cause frustration for trans customers. As one person described:

*One staff member justified my initial experience and poorly handled complaint with the organisation by saying, "It's just because it (people identifying as transgender) is so unusual. No one's out to get you."*

Another respondent reported that staff told them that they needed to have an operation to change the gender marker on their records and then, afterwards, told them that they could not recognise the customer as non-binary. This led the customer to feel that they were refused help, that the bank's service and systems were horrible, and that excuses were made when they were not treated respectfully.

Sometimes intrusive questions are asked for no discernible reason. One person told us that they were asked about their sexual orientation when interviewing for a job at a bank despite the information not being used for hiring purposes. Other people told us about intrusive questions being asked as part of insurance applications, including around sexual practices and the possibility of HIV exposure.

Some respondents expressed frustrations that banks participate in pride events when they do not provide adequate support to their trans and gender diverse customers. As one person surmised:

*Outwardly they promote inclusion, but their actions speak much louder.*

Some reported that it depends on 'potluck' as to whether you get good service with a particular bank. Others reported that all banks are the same and that all discriminate. Some have resorted to using a broker to negotiate loans on their behalf in order to avoid any awkwardness or experiences of customer service representatives being rude or refusing to service them. What is clear is that there needs to be consistently good service – it's not that hard.

## Recommendations

- Banks should review their material to ensure that it includes depictions of LGBTIQ+ people and provides simple and clear information on the process for changing name, gender or title.
- Frontline staff should receive training on LGBTIQ+ inclusivity, underpinned by staff policies that include a zero tolerance approach towards and positive actions to tackle bullying, discrimination and harassment of LGBTIQ+ workers or customers.
- Banks should review their recruitment processes to only collect and use data on sexual orientation, gender identity or intersex status where required, for example, as part of affirmative action.
- Insurance companies should review their practices regarding HIV status to ensure that they are reasonable and evidence-based.
- Banks and regulators should provide clear guidance to customers on how to progress complaints concerning discrimination on the grounds of sexual orientation, gender identity or intersex status so that consumers know and can access their rights.

## Service refusal

**5% of survey respondents told us that they had been refused service by a bank on the basis of their sexual orientation, gender identity or intersex status.**

Again, some of the experience of service refusal by banks and loan providers is historical. As one person told us:

*A staff member refused the concessional interest rate because two men owned the home. They said they didn't recognise the relationship. I fought that and the policy was changed, flowing through to other same sex couples previously denied the concessional rate. This was thirty years ago, and I suspect such policies have long been in the dustbin... All lenders need to be able to confirm there is no discrimination on the basis of relationship.*

Some reported that they had been refused administrative help on the basis of their sexual orientation, gender identity or intersex status even in the present-day.

Others reported compounding factors that were not directly related to their sexual orientation, gender identity or intersex status. Some of this is historical. A lesbian woman reported that she was denied a home loan thirty years ago because she needed a father or male relative to co-sign the paperwork. However, some of this is more contemporary. A gay man who is a sex worker said that he was forced to hide his work and list his occupation as 'musician' in order to access basic business banking accounts. Part of the problem is that the majority of banks provide no public assurance tailored to sex workers, via policies and the like, that discrimination will *not* occur in their banking services.

## Recommendations

- Banks should provide clear assurances, via policies and the like, that they do not discriminate against LGBTIQ+ people or sex workers.

## Excessive evidence and repeated disclosure

**21% of survey respondents told us that they had to provide excessive evidence to a bank to change their name or gender, 8% had to provide excessive evidence to prove their relationship status, and 22% had to repeatedly disclose a former name or gender.**

Whilst survey respondents recognised that banks would need to know some information in order to change a customer's gender, name or relationship status, many reported that the evidence required was excessive, including when applying for loans. Again, this was particularly so for trans and gender diverse customers.

Some reported having to mail numerous copies of certified documents and attend unnecessary appointments in person in order to change their name or gender. In some cases, customers' requests to update their name, gender or title were refused and they had to escalate the issue to senior management. This was particularly so when it came to non-binary titles. Even when systems were updated, errors were still made on bankcards that required customers to go into a branch again to explain the issue.

For customers that sought to change their name, some were asked to provide documents, such as a 'change of name certificate' or a document with both one's old name and new name, which do not exist in Victoria (at least not without a fee). Others were asked to provide excessive legal documents and even letters from psychiatrists. Even if adequate documents, such as a new birth certificate, were provided, some customers were told that this was not enough. Some customers have been forced to expend significant money and wait a significant period of time in order to change their name. Customers sometimes have to resort to complaining and kicking up a fuss in order to progress name changes. Even when names are changed, dead names are still sometimes listed on customers' records. As one person surmised:



*Banks have always been a bit of a sore point because I didn't really use my old legal name even before transition, and it was frustrating it had to be on everything. I hate how companies get to insist on a name for you even if you personally have always rejected it, and I think it is dehumanising that people are so disempowered with respect to their own name. Once my name was legally updated I haven't had many problems. One of my super accounts I still haven't been able to update because I need to do so much paperwork and they continue to misgender me and use the incorrect name in their correspondence. I can get it changed if I get a JP and so on, but it's just frustrating because my other account was really straightforward to update and I care more about avoiding the heartache and hassle than I do about the money to be honest. With many service providers I didn't even try to update, I just closed my account and got a new provider to avoid potential hassle.*

For customers that sought to change their gender, some were told that non-binary options were simply not possible under the legacy systems, which some banks still use, that do not recognise non-binary people. As one person told us:

*I attempted to sign up for a credit card by online form. Once the title of "Dr" was selected a second question asked for gender with options "Male" and "Female". I called to query this and the customer service representative was unable to resolve the issue. They tried to say that the field should be completed as per my passport, but they did not know what to do if my passport states sex as "X". I was promised that the issue would be escalated and a reply would be received once the issue was resolved but no further correspondence was received.*

Others were told that they needed to provide excessive evidence, such as a birth certificate, in order to change their gender marker, even though other documents such as their passport were already changed. In some cases, particularly for customers that pass as their gender, bank staff have referred to customers by their correct title and gender identity but still refused to update systems to reflect this.

A significant proportion of customers reported having to repeatedly disclose a former name or gender marker, including when requesting copies of old bank statements. Some gender diverse customers have been told that they cannot have a non-binary title or gender marker and were then repeatedly referred to by incorrect titles and pronouns. Some have described the process to update their name as particularly arduous. In the words of one person:

*When they refused to change my name and I lodged a complaint, they repeatedly said they'd call me by specific dates (usually within 1-3 days), but never once called me or initiated contact. I had to call up four times over a month to get my name changed. Each call required me to immediately deadname myself to identify my account, and staff immediately began referring to me by my deadname and using incorrectly gendered language. Over four phone calls, I had to come out as transgender to six individual staff, five of which still referred to me by the wrong name, title or gendered language at least once after being informed of the correct name and pronouns.*

Whilst some experienced a smooth process to amend their name or gender marker, systems were commonly regarded as a big issue. Some systems don't talk to each other such that changing a gender marker, title, or name in one system does not necessarily flow into another system.

Clearly, banks, especially large banking corporations, need to invest the money to update their systems, policies and procedures. This needs to be a priority for banks that seek to provide inclusive services. Process investment should come first, and not rely on trans and gender diverse people to champion inclusivity themselves.

## Recommendations

- Banks should review their practices regarding name changes to ensure that:
  - such processes are as simple as possible;
  - dead-names are removed from all records; and
  - all systems are updated.
- Banks should review their practices regarding gender and:
  - only collect and use data on gender where required;
  - include non-binary options for genders;
  - ensure that the process for changing gender is simple and comprehensive; and
  - not default to certain genders based on assumptions about a person's gender.
- Banks should review their practices regarding titles and:
  - only use titles where required;
  - include non-binary options for titles;
  - ensure that the process for changing titles is simple and comprehensive; and
  - not default to certain titles based on assumptions about a person's gender or relationship status.
- Banks should only collect and use data on relationship status where required.
- Banks should consider whether a case management approach is required to ensure that a customer who is changing their name, gender or title need only speak to one customer service representative.