



**LESBIAN
GAY
BISEXUAL
TRANSGENDER
INTERSEX**

EQUALITY • DIGNITY • FREEDOM

Terms of Reference for National Task Team on Gender and Sexual Orientation-Based Violence Perpetrated Against LGBTI Persons



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA



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THE NATIONAL TASK TEAM ON GENDER AND SEXUAL ORIENTATION-BASED VIOLENCE AGAINST LGBTI-PERSONS¹

1. BACKGROUND

The Bill of Rights, enshrined in the Constitution of the Republic of South Africa, 1996, includes a guarantee of equality and a prohibition of unfair discrimination on several grounds, including gender, sex and sexual orientation.

The Constitution is the highest law of the country; the South African laws, through legal challenge and reform, have adapted to the Constitution. Laws that protect people against discrimination and promote equality on all grounds listed in the Bill of Rights include the Labour Relations Act, 1995 (Act No. 66 of 1995); the Employment Equity Act, 1998 (Act No. 55 of 1998); the Medical Schemes Act, 1998 (Act No. 131 1998) (which defines 'dependent' to include same-sex partners); the Domestic Violence Act, 1998 (Act No. 116 1998) (which defines domestic relationships to include same-sex partners); the Refugees Act, 1998 (Act No. 130 of 1998); the Rental Housing Act, 1999 (Act No. 50 of 1999); and the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000). The introduction of equality courts was a further step to ensure equal enjoyment of all rights and freedoms by every person. The Children's Act, 2005 (Act No 38 of 2005) legalised both joint and step adoption by same-sex couples. In 2006, South Africa became the fifth country in the world, the second outside of Europe and the first on the African continent to grant official recognition to same-sex marriages through the Civil Union Act, 2006 (Act No. 17 of 2006). In terms of the Alteration of Sex Description and Sex Status Act, 2003 (Act No. 49 of 2003) transgender and intersex individuals can, under certain circumstances, have their sex description altered on official documents. In terms of the law South African lesbian, gay, bisexual and transgender people have achieved substantive equality in terms of the law. Unfortunately legal rights do not always translate into attitudinal change and full acceptance.

In the global arena, South Africa has since 1994 aligned itself with international trends to promote and protect human rights, including those of vulnerable persons. As a country, we are the proud signatories of many international treaties and regional protocols that promote a human rights culture based on freedom and equality. The Universal Declaration of Human Rights (1948), the Convention

¹ See Glossary for definitions of relevant terminology.

on the Elimination of all forms of Discrimination Against Women (1981), the Convention on the Rights of the Child (1989), the Protocol to the African Charter on Human and

People's Rights and the Rights of Women in Africa (2003), and the Southern African Development Community Protocol on Gender and Development (2008) still remain the key guiding international instruments for the promotion of human rights and for intervention against gender-based violence.

Of more direct significance is the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985), which requires all stakeholders to treat victims of crime and abuse of power with compassion and respect for their dignity when engaging with the criminal justice system.

Domestically, our Constitution has guided legal reform to prevent discrimination and promote equality. Internationally South Africa has set important precedents in expressly prohibiting all forms of discrimination, including on the grounds of sexual orientation. On the African continent, we have made a trend-setting mark in the recognition of the human rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons by asserting the right to equal protection and benefit of the law.

However, guaranteed constitutional protection, equality before the law and international instruments remain meaningless to citizens of this country unless the legislative framework and accompanying interventions are effective and actually protect people from discrimination and violence. Over the years, our Parliament has made great strides to show the dedicated commitment of government to the constitutional protection guaranteed to LGBTI persons.

However, we cannot be oblivious to the increasing level of violent crimes directed at LGBTI persons. At present, an increasing number of black lesbians in particular are becoming victims of homophobic rape (wrongly referred to as 'corrective rape') and murder.

Recently, the country has seen another form of hate crime emerging against gay men. A rising number of 'gay killings' have been reported by the media, especially in the provinces of Gauteng and recently, the Northern Cape.

According to a survey conducted by the Human Sciences Research Council in 2007, more than 80% of the South African population considered homosexuality as 'always wrong'. These homophobic views and beliefs are largely connected to issues of gender since the discrimination and resulting violence is often triggered by the victim's non-conforming to patriarchal gender and sexuality norms and roles that are prescribed by society. In many communities, same-sex relationships are still perceived as non-conforming to the dominant societal norms which define heterosexuality as the only acceptable form of sexuality. These perceptions often expose LGBTI persons to hate speech and violent behaviour that sometimes cost them their lives.

While harassment and violence occur across all communities, research shows that the working class and poor black LGBTI people who live in townships and rural areas are subjected to more violent homophobic and transphobic crimes. The fact that they are much less likely to have the means and resources to access protection, justice and redress through either criminal or civil law remedies increases their vulnerabilities. This violence reinforces the existing social inequalities, based on gender, sexuality, race and class, and consequently widens the gap between rights 'as enshrined in the Constitution' and rights 'as they are lived'.

Despite the Constitutional right to be free from all forms of violence¹ and unfair, LGBTI persons are still subjected to horrific murders that blatantly communicate to them that they are less human with expendable lives. LGBTI persons are not seeking special rights, but equal rights.

In March 2011, the Minister of Justice and Constitutional Development was petitioned by Luleki Sizwe, a civil society organisation (CSO) based in Cape Town, to quickly intervene against homophobic rape. Soon thereafter, the Minister mandated the establishment of a National Task Team to develop a National Intervention Strategy that will address homophobic rape.

In March 2011, the Department initiated engagements with the key Government Departments and institutions to establish a National Task Team. In the same month Luleki Sizwe and other LGBTI CSOs were also engaged for the same purpose. In August 2011 CSOs selected ten (10) representatives to the National Task Team (NTT). In September 2011, the NTT was officially established by the Deputy Minister of Justice and Constitutional Development.

2. GOVERNING PRINCIPLES OF THE NTT

2.1. SHARING, ACCEPTANCE AND RESPECT

We strive to be open and encourage individuals in the NTT to self-disclose around our priorities, personal values and individual uniqueness. Active involvement with each other is essential, in aiming to get to know each other and in being respectful of each other's individual strengths and weaknesses, and accepting these without prejudice.

2.2. CONFIDENTIALITY

We aim to respect the information shared within the NTT, whether it is about ourselves or the organisations we represent. We, as a collective, will practise discretion and integrity in distinguishing between what can or ought to be shared outside of the NTT and what needs to remain confidential, even if only for an agreed upon period of time. Individuals should make it explicit when what they share is personal and/or confidential, and this should be respected

by all the Task Team members. Responsibility for holding confidentiality ultimately lies with partner organisations, rather than their respective representatives at a particular meeting. These representatives will thus strive to ensure that others of their organisations also understand the need to respect agreed upon confidential matters.

2.3. EFFECTIVE COMMUNICATION

We believe that effective communication is an active responsibility of both the receiver and sender. And so, every sender will try to evaluate whether their communication is effective, and take responsibility for what, how, when and they communicate. We acknowledge that a lack of communication can also be seen by others to be communicating something. In the interest of effective communication, in the event that new representatives are sent by organisations to attend NTT meetings, they should be bound by the terms of reference, and fully briefed on the content thereof.

2.4. GIVING AND RECEIVING FEEDBACK

We hope to give constructive feedback to each other and to be willing to receive the same in return. This means making space for our own, and others, thoughts and feelings. We recognise that feedback is definitely not always negative, and will make sure that we also provide positive feedback and recognition for other people's achievements and efforts.

2.5. MANAGING CONFLICT

We commit to avoid conflict through the exercise of respect for the dignity of one another. Serious conflicts will be referred to the Working Group for resolution. Reaching closure on issues will prevent us from accumulating baggage and unfinished business.

2.6. BUILDING TRUST AND COMMITMENT

We commit to taking responsibility for our respective tasks and to make sure that we discuss these timeously in the event that we cannot keep a commitment. This means being prepared to openly share the reasons and deal with the consequences. If a deadline is set, we will aim to honour it, and not unduly change it. In the event that a deadline cannot be met, we will notify partners in advance so that a contingency plan can be made. Being committed also means that we will attend meetings regularly and keep to timetables that are set as far as possible.

2.7. BEING A TEAM

We will encourage the viewing of different opinions and debate their merits as a collective. When the team reaches a decision the "we" identity should take precedence over the "I". In the interest of team building we will trust the intentions of others and accept that an individual may do what they

do for the benefit of the group. Every attempt will be made to create and maintain a supportive environment in which group members and their respective contributions to the NTT are valued. Thus, in consolidating a team we will actively work towards treating each other fairly and equally.

3. MANDATE OF THE NTT

The NTT was initially established to address homophobic rape. However, in light of other violent crimes including murder, directed at LGBTI persons, a resolution was taken to extend the scope of the project to include all gender-based violent crimes and sexual orientation-based crimes that are perpetrated against LGBTI persons.

LGBTI persons are often victims of gender-based violence and sexual orientation-based violence. Many LGBTI persons become victims of these crimes due to non-conformity to practices that legitimise heterosexuality as a dominant and acceptable sexuality against homosexuality.

While violence against LGBTI persons has been identified as a priority, the Department of Justice and Constitutional Development (DoJ&CD) recognises the need to take a more comprehensive approach to promoting the human rights of LGBTI persons. The National Intervention Strategy has an immediate goal of addressing violence perpetrated on the basis of prejudice regarding a person's sexual orientation and/or gender identity, also referred to as hate crimes.

Hate crimes are defined as acts that are motivated in whole or in part by bias or hatred regarding an aspect of a person's identity (Nel, van Wyk, & Mbatha, 2013)². Two key components of hate crimes can be identified: "The first is that the act constitutes a crime under existing criminal law (such as intimidation, arson, damage to property, assault, rape or murder); the second is that some form of specific bias was involved in the selection of the victim" (Nel et al, 2013, p. 6). However, this mandate may be extended to deal with the broad concerns of LGBTI persons that are not related to violence and crime, but to the protection of their constitutional rights.

4. PURPOSE OF THE NTT

The purpose of the NTT is to develop a National Intervention Strategy to address gender and sexual orientation-based violence against LGBTI persons, especially in the criminal justice system. The Intervention Strategy will use an intersectional approach which may include, but is not limited to addressing discrimination on the basis of including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth as provided for in section 9(3) of the Constitution.

² Nel, J.A., van Wyk, H., and Mbatha, K. 2013. User guide: Hate & Bias Crime Monitoring Form. Johannesburg: Hate Crimes Working Group.

5. OBJECTIVES

The objectives of the NTT are to:

- 5.1. Develop the National Intervention Strategy to respond to and prevent gender and sexual orientation-based violent crimes perpetrated against LGBTI persons;
- 5.2. Develop the Intersectoral Implementation Plan for the Strategy which would link parallel and complementary initiatives, internal and external to the DoJ&CD such as the concurrent development of a Hate Crimes Bill and Policy Framework, and the Hate and Bias Crime Monitoring Forum;
- 5.3. Strengthen governments' ability to respond to LGBTI needs and specific vulnerability and strengthen the capacity of CSOs to deliver related services;
- 5.4. Improve linkages with other government departments, programmes within the DoJ&CD such as the Access to Justice and the Promotion of Constitutional Rights programme and the National Action Plan (NAP) as well as relevant Chapter 9 institutions (such as the Human Rights Commission and the Commission for Gender Equality), that combat racism, xenophobia and related intolerance and in that manner address the impact of multiple and intersecting forms of discrimination targeting LGBTI persons;
- 5.5. Improve the management of cases by relevant role players in the justice system including the South African Police Service, the National Prosecuting Authority, the Department of Social Development, the Department of Health and the Department of Correctional Services; and
- 5.6. Implement, coordinate, monitor and evaluate the National Intervention Strategy and other related objectives.

6. COMPOSITION OF THE NATIONAL INTERVENTION NTT

The NTT must be constituted by Government Departments and Institutions that participate in crime intervention, including CSOs that specialise in issues related to LGBTI persons and communities. The Justice Crime Prevention and Security Cluster Departments are key representatives of the NTT, and their participation will be monitored through the Development Committee (DevCom). These include:

- 6.1. The Department of Justice and Constitutional Development;
- 6.2. The National Prosecuting Authority of South Africa;
- 6.3. Legal Aid South Africa;
- 6.4. The Department of Social Development;
- 6.5. The South African Police Service;
- 6.6. The Department of Health;
- 6.7. The Department of Basic Education;
- 6.8. The Department of Correctional Services;
- 6.9. The Government Communications and Information Systems;
- 6.10. The Department of Women, Children and People with Disabilities;
- 6.11. The Department of International Relations and Cooperation;
- 6.12. The South African Human Rights Commission;
- 6.13. The Commission for Gender Equality;
- 6.14. Human Rights Watch (HRW);
- 6.15. The Department of Corporate Governance and Traditional Affairs;
- 6.16. Gay & Lesbian Memory in Action (GALA);
- 6.17. OUT LGBT Well-Being (OUT);
- 6.18. Forum for the Empowerment of Women (FEW);
- 6.19. The SANAC LGBTI Sector;
- 6.20. The Triangle Project (TP);
- 6.21. Luleki Sizwe (LS);
- 6.22. Gender DynamiX (GDx);
- 6.23. Intersex South Africa;
- 6.24. LifeLine SA; and
- 6.25. The Foundation for Human Rights (FHR);
- 6.26. CSO Representative from Provinces

As the lead Department, the DoJ&CD is responsible for setting up the NTT.

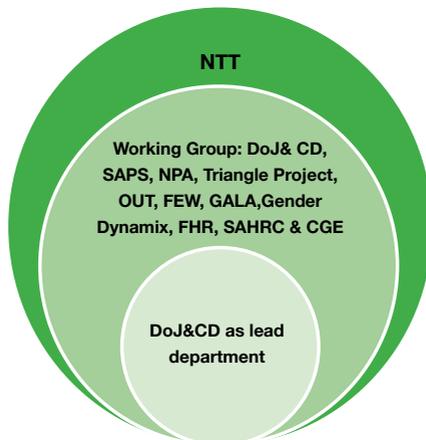
The Chapter 9 institutions have an important role to play in the NTT in terms of their mandate to promote, protect and monitor rights as guaranteed in the Constitution.

The CSOs that have been selected by civil society to participate in the NTT may be revised by LGBTI CSOs as needed, to ensure optimal representivity in terms of geographic location and constituencies to be served by the NTT.

New members will be added if there are no objections by any other existing member, present at the National Task Team Working Group meeting where the new member has been nominated. National Task Team members remain obliged to report back to their respective constituencies on the work undertaken by the National Task Team. The same applies to government departments as well as Chapter 9 institutions.

7. GOVERNANCE ISSUES

The NTT is established and led by the DoJ&CD. The governance structure is as follows:



As shown in the above diagram, the Governance Structure has the following offices, bodies and teams:

7.1. THE MINISTER'S OFFICE

The Minister of Justice and Constitutional Development carries the ultimate authority over all operations of the NTT. Upon the finalisation of the Terms of Reference (ToR), the National Intervention Strategy, etc, the NTT will submit the ToR, the Strategy Document, to the Minister for approval, via the office of the Director-General: DoJ&CD.

With effect from the date of the adoption of the ToR by the NTT, the Working Group through the Branch: Constitutional Development, shall submit quarterly reports to the Minister, until the objectives of the NTT are achieved.

7.2. BRANCH: CONSTITUTIONAL DEVELOPMENT

The Branch: Constitutional Development within the DoJ&CD must ensure dedicated expertise and skills to ensure effective and smooth functioning of the NTT, including but not limited to the following:

- LGBTI expertise- this may take the form of a technical advisor from civil society appointed to the DoJ&CD for a specific period of time;
- Project management skills;
- Research skills;
- Coordination skills;
- Community capacity building skills;
- Stakeholder management skills; and
- Report writing skills.

In the event of a lack of dedicated capacity within the Chief Directorate: Constitutional Development, DoJ&CD is expected to outsource these skills and expertise. This decision has been taken to serve as a measure to address the inability of the members of the NTT to dedicate 'full time' services to the NTT.

In recognition of the leading role that South Africa plays in the arena of LGBTI rights on the continent and internationally, it will be important to enhance and develop capacity in research and knowledge management in DOJ&CD in order to create and maintain an archival repository of the work of the NTT; this can be noted for consideration in internal capacity building of the DOJ&CD and can also be addressed through linking with existing parallel initiatives.

7.2.1. THE DUTIES, RESPONSIBILITIES AND ROLE OF THE DOJ&CD

The Chief Directorate: Constitutional Development within the DoJ&CD will provide secretariat functions to the NTT to:

- Lead and manage the NTT;
- Lead and coordinate the execution of the activities of the NTT and its structures which includes meeting with the Working Group and regularly consult, communicate with these structures towards joint decision making;
- Provide funding for the execution of the programme activities, excluding the travelling, accommodation and subsistence claims of the government members of the NTT.
- Assist in securing donor funding to cover travelling and accommodation of the CSO members who stay out of the province where the engagement is held;
- Provide skills referred to in paragraph 8.2 above, to support the execution of the activities of the NTT;
- Convene meetings, working sessions and other related engagements of the NTT which includes managing the flow of information and communication amongst the stakeholders of the NTT.

7.3. WORKING GROUP

7.3.1. THE DUTIES, RESPONSIBILITIES AND ROLES OF THE WORKING GROUP

The Working Group is co-chaired by DoJ&CD and a representative from Civil Society (refer to section 12) and is expected to:

- Provide guidance and support to all structures of the NTT, including necessary and essential operational planning;
- Appoint sub-committees to address specific priorities as and when required;
- Ensure that quarterly progress reports are submitted to the Minister;
- Receive monthly reports from the DoJ&CD and all appointed stakeholders;
- Monitor the performance of the DoJ&CD, stakeholders, and the NTT, as a whole; and
- Meet every second month, unless otherwise agreed upon.

8. STAKEHOLDERS

Stakeholders could be appointed by the DoJ&CD, in consultation with the Working Group, to provide technical support to the NTT. They provide the requisite skills and expertise at the different levels of operation. The key deliverables of stakeholders include, for example, providing support to the NTT to deliver:

8.1. SITUATIONAL ANALYSIS REPORT WITH RECOMMENDATIONS; AND

8.2. NATIONAL INTERVENTION STRATEGY.

All stakeholders report directly to the DoJ&CD on a monthly basis until the delivery of the output. However, the DoJ&CD monitors their performance in consultation with the Working Group. All reports will be circulated to the Working Group and serve at meetings of the NTT.

Each stakeholder must compile and submit its work plan to the DoJ&CD. This work plan will be considered and approved by the DoJ&CD, in consultation with the Working Group and NTT, as a whole.

9. THE NTT

The NTT is constituted by all relevant government departments, Chapter 9 Institutions and CSO's listed in paragraph 7.

9.1. DUTIES, RESPONSIBILITIES AND ROLE OF THE NTT

Meetings of the NTT:

- Should provide guidance and support to the Working Group and the DoJ&CD;
- Must be held quarterly, unless otherwise agreed upon;
- Must monitor the performance of the Working Group and the DoJ&CD, and receives reports from the Working Group and the DoJ&CD; and
- Must ultimately serve to oversee the development and implementation of the National Intervention Strategy with the assistance of the required expertise provided by the DoJ&CD.

Attendance of meetings is compulsory and the failure by a member to attend a meeting without an apology must be reported to the relevant institution.

10. TIME FRAME FOR THE NATIONAL TASK TEAM

The timeframe of the NTT is subject to the development and implementation of related legislation, policy frameworks and programmes.

11. METHODOLOGY

The NTT will develop the National Intervention Strategy through the execution of, amongst others, the following sub-projects:

11.1 Situational Analysis in Courts

11.2 Compilation of the National Intervention Strategy based on the Situational Analysis and other research findings

11.3 Communication strategy developed by GCIS

11.4 Development of a mechanism to address unresolved and pending cases of LGBTI-related violence

12. NOMINATIONS OF CHAIRPERSON AND CO-CHAIRPERSON:

The Chair of the NTT is the DoJ&CD, and a representative of civil society will serve as Co-chair of the NTT and its Working Group. The Chair from the DoJ&CD will be the Director-General or his/her nominee. The Chairperson of the NTT shall preside at meetings, approve the provisional agenda prepared by the Secretariat, represent the NTT as required within the limits of the Task Team's mandate, and receive invitations to attend meetings on behalf of the NTT, delegate attendance to those meetings and carry out other functions that may be entrusted to him/her by the NTT.

The Co-Chairperson of the NTT shall jointly preside at meetings of the NTT and shall assist the Chair in his or her functions.

In the absence of both the Chairperson and Co-Chairperson, the members present at a meeting must elect a person from among those attending to preside at that specific meeting.

13. DECISIONS TAKEN AT NTT MEETINGS

NTT decisions are made by consensus whenever possible. When consensus cannot be reached, a vote will be called and a simple majority rule will apply. A quorum of 50% plus 1 of the total NTT Working Group members present is required for decisions to be valid. Any NTT member has the right to insert a dissenting voice or opinion into the minutes of the meeting at which the decision is made, or at the first meeting thereafter.

For changes to the ToR, a two-thirds majority vote will be required.

If a member of the NTT is absent from more than two consecutive meetings, the DoJ&CD will contact the organisation they represent to seek a resolution satisfactory to the NTT or to request that a replacement attends.

In the event of a NTT member not being able to attend, a representative who has been briefed and who has the mandate from the nominating member, will be nominated to attend.

14. MEDIA STATEMENTS

The DoJ&CD will use their established channels to communicate on behalf of the NTT. CSOs that participate in the NTT retain their right to communicate to or on behalf of their constituencies about the work of the NTT, but should not purport to speak on behalf of the NTT as a whole.

GLOSSARY OF LGBTI, GENDER AND SEXUALITY RELATED TERMSⁱⁱ

BIOLOGICAL SEX: The biological and physiological characteristics that are socially agreed upon as informing the classification of a person as male or female.

BISEXUAL: A person who is capable of having sexual, romantic and intimate feelings for or a love relationship with someone of the same gender and/or with someone of other genders. Such an attraction to different genders is not necessarily simultaneous or equal in intensity.

GAY: A man who has sexual, romantic and intimate feelings for or a love relationship with another man (or men).

GENDER: The socially constructed roles, behaviour, activities and attributes that a particular society considers appropriate for either men or women.

GENDER IDENTITY: A person's private sense of being male, female or another gender. This may or may not match the biological sex a person was assigned at birth.

GENDER NON-CONFORMITY: Displaying gender traits that are not normatively associated with a person's biological sex. "Feminine" behaviour or appearance in a male is considered gender non-conforming, as is "masculine" behaviour or appearance in a female.

HATE CRIME: A criminal offence perceived as being motivated by prejudice or hate. The perpetrators seek to demean and dehumanise their victims, whom they consider different from them based on their actual or perceived race, ethnicity, gender, gender identity, age, sexual orientation, disability, health status, nationality, social origin, religious convictions, culture, language or other characteristic.

HETERONORMATIVITY: Related to "heterosexism", it refers to the privileged position associated with heterosexuality based on the normative assumptions that there are only two genders, that gender always reflects the person's biological sex as assigned at birth, and that only sexual attraction between these "opposite" genders is considered normal or natural. The influence of heteronormativity extends beyond sexuality to also determine what is regarded as viable or socially valued masculine and feminine identities, *i.e.* it serves to regulate not only sexuality but also gender.

HETEROSEXISM: A system of beliefs that privileges heterosexuality and discriminates against other sexual orientations. It assumes that heterosexuality is the only normal or natural option for human relationships and posits that all other sexual relationships are either subordinate to or perversions of heterosexual relationships. In everyday life, this manifests as the assumption that everyone is heterosexual until proven otherwise.

HETEROSEXUAL: Having sexual, romantic and intimate feelings for or a love relationship with a person or persons of a gender other than your own.

HOMOPHOBIA: Also termed “homoprejudice”, it refers to an irrational fear of and/or hostility towards lesbian women and gay men, or same-sex sexuality more generally.

INTERSECTIONALITY: The interaction of different axes of identity, such as gender, race, sexual orientation, ability and socio-economic status, in multiple and intersecting ways, resulting in different forms of oppression impacting on a person in interrelated ways.

INTERSEX: A term referring to a variety of conditions (genetic, physiological or anatomical) in which a person’s sexual and/or reproductive features and organs do not conform to dominant and typical definitions of “female” or “male”. Such diversity in sex characteristics is also referred to as “biological variance” – a term which risks reinforcing a pathologising treatment of differences among individuals, but is used with caution in this document to indicate an inclusive grouping of diversity in sex characteristics, including, but not limited to, intersex individuals.

LESBIAN: A woman who has sexual, romantic and intimate feelings for or a love relationship with another woman (or women).

LGBTI: An abbreviation referring to lesbian, gay, bisexual, transgender and intersex persons. “LGB” are sexual orientations, while “T” is a gender identity and “I” is a biological variant. They are clustered together in one abbreviation due to similarities in experiences of marginalisation, exclusion, discrimination and victimisation in a heteronormative and heterosexist society, in an effort to ensure equality before the law and equal protection by the law. However, the possible differences between persons who claim these labels or to whom these labels may be assigned ought not to be trivialised. Their respective issues, experiences and needs may in fact differ significantly and in several respects. In solidarity with the activist position regarding this matter, however, in this document, reference is made to LGBTI and distinctions among the diversity of identities that exist are minimised.

SEXUAL ORIENTATION: A person’s lasting emotional, romantic, sexual or affectional attraction to others (heterosexual, homosexual/same-sex sexual orientation, bisexual or asexual).

TRANSGENDER: A term for people who have a gender identity, and often a gender expression, that is different to the sex they were assigned at birth by default of their primary sexual characteristics. It is also used to refer to people who challenge society’s view of gender as fixed, unmoving, dichotomous, and inextricably linked to one’s biological sex. Gender is more accurately viewed as a spectrum, rather than a polarised, dichotomous construct. Transgender people can be heterosexual, bisexual, homosexual or asexual.

- ⁱ Section 12(1)(c) of the Constitution of the Republic of South Africa, 1996
- ⁱⁱ Reference from PsySSA. (2013). Sexual and gender diversity position statement: Introduction, rationale and context. (www.psyssa.com)
- ⁱⁱ Adapted from PsySSA. (2013). Sexual and gender diversity position statement: Introduction, rationale and context. (www.psyssa.com)

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