



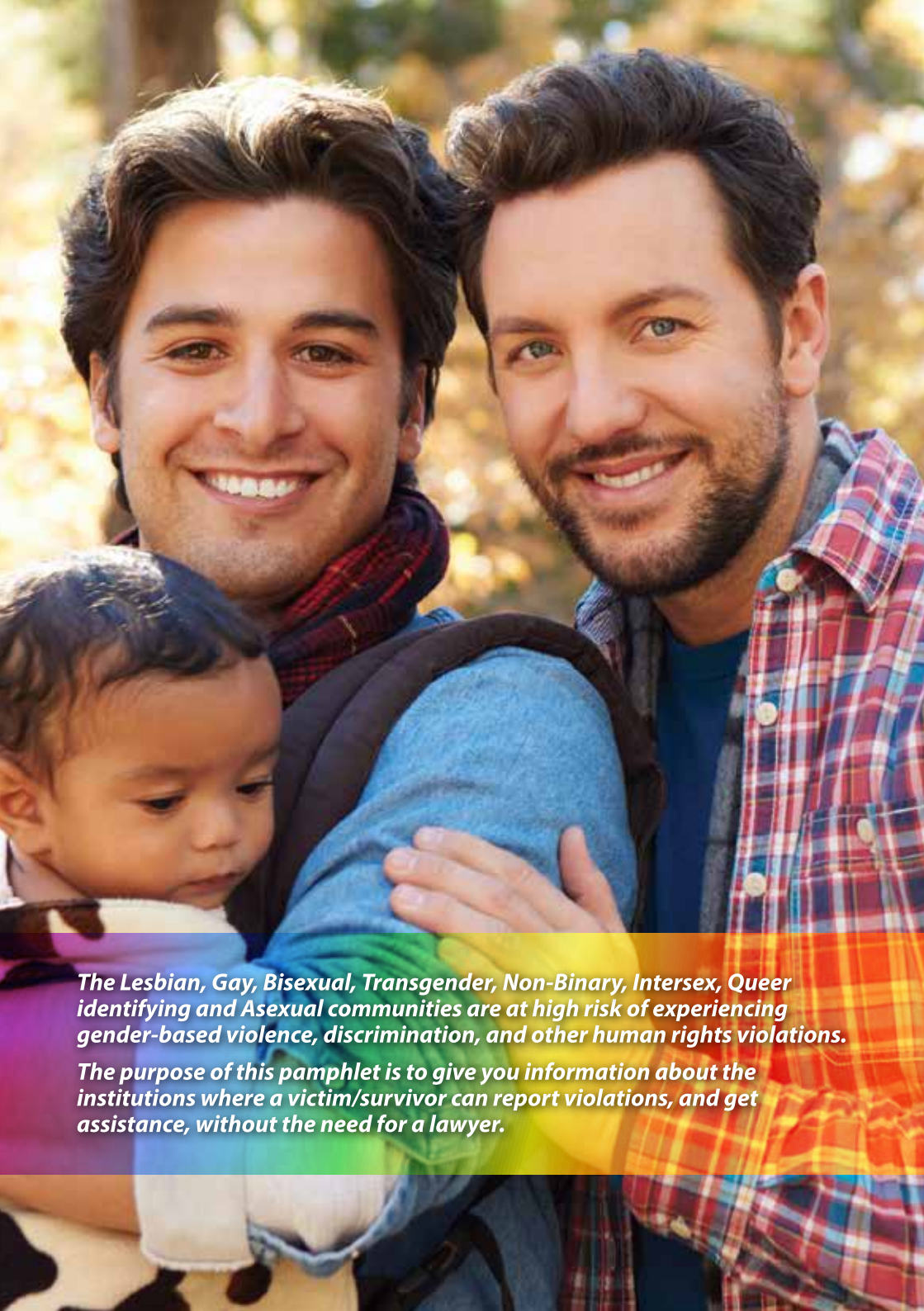
LGBTIQA+ JUSTICE

WITHOUT A LAWYER



OPEN SOCIETY FOUNDATION
FOR SOUTH AFRICA





The Lesbian, Gay, Bisexual, Transgender, Non-Binary, Intersex, Queer identifying and Asexual communities are at high risk of experiencing gender-based violence, discrimination, and other human rights violations.

The purpose of this pamphlet is to give you information about the institutions where a victim/survivor can report violations, and get assistance, without the need for a lawyer.

Here are few important human rights that LGBTIQ+ community members should be aware of:

- **Section 9** states that every person has the right to **Equality**. This means everyone is equal before the law and that unfair discrimination by the state or anyone else, based on a person's sexual orientation or gender identity/expression, is never allowed.
- **Section 10** states that every person has the right to **Dignity**.
- **Section 12** states that everyone has the right to **Freedom and Security**. That means that no one may arrest you for no reason, torture you, or treat you in a cruel, inhumane, or degrading or violent way.
- **Section 14** states that every person has the right to **Privacy**.
- **Section 27** states that every person has the right to access **Health care services**, including reproductive health care services and no one may be refused emergency medical treatment.

What can I do if my rights have been violated?

Step 1

Decide what outcome you want

- You should choose the legal steps you take (also known as “legal remedy”) based on the outcome that you want. Different legal remedies can achieve different results, and to go the right place for help, you should first understand what the different legal options are, and what they achieve for you.
- It is also possible to choose more than one remedy, and to follow them at the same time. For example: you can lay a criminal charge **and** get a civil law protection order too.
- It is important to understand that the law cannot always fix every problem, especially when it comes to people's feelings. The law is limited, and sometimes your problem can be solved better with social interventions.



If you are unsure about which remedy to choose, or which process to follow, why not get some legal advice before you begin by contacting our paralegal clinic. You can reach the OUT-LGBT Well-being Love not Hate Legal Clinic on www.lovenothate.org.za, e-mail us on report@lovenothate.org.za or telephonically on +27 12 430 3272.

Step 2

Gather and organise all your documents and evidence

- Evidence is important in any legal matter and the more evidence you can present, the stronger your case will be.
- You should always make sure you keep your evidence organised. Make notes of the names and contact details of people involved, and anyone you speak to for advice. Make notes of dates and times when things happen, and every time there is a development in your case.
- Some examples of evidence that can be produced in cases include:
 - Documents (sworn statements, letters, emails, contracts, agreements, and any printed materials)
 - Items (clothing, weapons, and other things)
 - Electronic messages (SMS, WhatsApp, emails),
 - Medical evidence (J88 document from medical practitioner, doctor's letters, and certificates)
 - Witnesses who are willing to testify on your behalf or submit statements under oath.

Step 3

Find the right institution to help you achieve the outcome you want

Now you are ready to approach the right institution that can help you achieve the outcome you want.

The following institutions, courts, and commissions have been created specially to help people when their rights have been violated. The procedures and rules in these institution, courts, and commissions are not as formal and difficult as an ordinary court where you need a lawyer. They are designed to be used with, or without a lawyer, and the staff at these places must assist you to complete the right paperwork, and to follow the right steps.



Equality Courts

Purpose:

Equality courts are civil courts that hear matters relating to unfair discrimination, hate speech and harassment.

The Equality court may:

- Make an order preventing unfair discrimination or directing that specific steps be taken to stop the unfair discrimination, hate speech or harassment.
- Order that an unconditional apology be made.
- Make an order for payment of damages for loss (including future loss), for pain and suffering, emotional and psychological effects suffered by a person because of unfair discrimination and harassment.
- Make an order for the payment of damages in the form of a donation to an organisation.
- Make an order that a settlement between the parties to the proceedings becomes an order of the court (making a settlement legally binding).
- Make interim orders (temporary order) or a declaratory order (an order explaining the rights/obligations between parties) in respect of the unfair discrimination experienced.
- Make an order to prevent the unfair denial of specific opportunities or privileges.
- Make an order directing the reasonable accommodation of a group or class of persons by the respondent.

Contact Details:

All the courts of South Africa can act as Equality Courts if you follow the right complaints procedure.

You can visit your nearest court, and ask to see the Clerk of Equality Court, who can assist you with the correct forms.



The South African Human Rights Commission (SAHRC)

Purpose:

- To investigate and to report on the observance of human rights.
- To promote the protection, development, and realisation of human rights.
- To monitor and assess whether human rights are respected and protected in South Africa.
- To carry out research and to provide education and training on human rights.

The South African Human Rights Commission may:

- Receive and investigate complaints or reports of human rights violations.
- Resolve a dispute, or fix an act or omission (failure to act) through mediation, conciliation, and negotiation.
- Where necessary, provide financial assistance for action to be taken in relevant courts for the necessary relief.
- Refer complaints to specific forums (e.g. The Equality Court).

Contact Details:

The South African Human Rights Commission has offices in all 9 provinces.

Head office in Johannesburg contact number: 011 877 3600

Website: www.sahrc.org.za



The Commission for Gender Equality (CGE)

Purpose:

- To promote respect for gender equality and the protection, development, and attainment of gender equality.
- To advise and make recommendations to parliament or any South African law or proposed laws which affect gender equality.

The Commission for Gender Equality may:

- Investigate any complaints related to discrimination based on gender with the aim of resolving or rectifying the act or failure to act through mediation, conciliation, or negotiation.
- Monitor and evaluate the gender policies and practices of public bodies/authorities and private businesses.
- Refer a matter to another correct court or forum (e.g. The Human Rights Commission).
- Conduct research on gender related matters and advise parliament accordingly.

Contact Details:

The Commission for Gender Equality has offices in all 9 provinces.

Head office in Johannesburg contact number: 011 403 7182

National contact center: 0800 007 709

Website: www.cge.org.za



Commission for Conciliation, Mediation and Arbitration (CCMA)

Purpose:

To act as an independent authority which promotes fair practices in the workplace and aims to resolve labour related disputes.

The Commission for Conciliation, Mediation and Arbitration may:

- Attempt to resolve labour disputes through conciliation (peacemaking).
- Attempt to resolve a labour dispute through arbitration (alternative dispute resolution – out of court) if conciliation fails or if the parties agree to do so.
- If requested to do so:
 - Give you advice about Labour Relations Act procedures.
 - Assist you to get legal advice, assistance.
 - Offer to resolve a dispute that has not been referred to the Commission.
- Order (subpoena) that a witness should appear, or that documents to be submitted as evidence in a labour dispute.
- Make an agreement or settlement agreement (at request of either party) between parties in a dispute legally enforceable (legally binding). The agreement/settlement must be in writing.

Before going to the CCMA for help, you must try all the possible internal process at your workplace first, such as complaints, appeals and anything else your workplace policies say about your particular kind of problem.

Contact Details:

The Commission for Conciliation, Mediation and Arbitration has branches in all 9 provinces.

Head office in Johannesburg contact number: 011 377 6650/6600

Head office fax number: 011 834 7351

National fraud line: 0860 666 348

E-mail: info@ccma.org.za

CCMA Website: www.ccma.org.za



Independent Police Investigative Directorate - IPID

Purpose:

- To act as independent body to investigate any alleged wrongdoing of, or crime committed by a member of the police service in the South Africa (e.g. any deaths or abuse while in police custody, illegal discharging of firearm and any corruption by police officers).
- Ensure independent oversight of the South African Police Services and Municipal Police Services.

The Independent Police Investigative Directorate may:

- Investigate any reported unlawful behaviour by the police and make disciplinary recommendations to hold police officer accountable.
- Find any person who interferes with the reporting/investigative/disciplinary processes guilty of a criminal offense (punishable by law).

Contact Details:

Head office in Pretoria contact number: 012 399 0000
Fax number: 012 326 0408
E-mail: Complaints@ipid.gov.za
Website: www.ipid.gov.za



Police National Service Complaints

Purpose:

- To help the community to receive good service delivery from the South African Police Services.
- To receive complaints about bad service delivery from the South African Police Service.

The Police National Service Complaints Center may:

- Investigate and correct any reported bad service received from SAPS employees experienced by any person or organisation.
- Investigate and correct any failure to act appropriately (correctly) by SAPS employees.
- To address secondary victimisation, or police unwilling to assist or provide protection.
- Injunctive relief (a court order), such as orders to end the wrongful acts and changes to policies and procedures that resulted in or allowed the misconduct (wrongful act).

Contact Details:

The Police National Service Complaints has branches in all 9 provinces.

Call Centre: 0800 333 177
Fax: 012 393 5452
Website: www.saps.gov.za
E-mail: complaintsnodalpoint@saps.gov.za



Health Professions Council of South Africa

Purpose:

- To uphold and maintain professional and ethical standards within the health professions.
- To serve and protect the public in matters involving the provision of health services by anyone practicing a health profession.
- To control the education, training, and registration for and practicing of registered health professions.
- To assist in reported unfair discrimination when accessing healthcare services or refusal of services by a registered healthcare worker (public or private).

The Health Professions Council of South Africa may:

- Investigate any complaints concerning registered healthcare professionals and to ensure that appropriate disciplinary action is taken to protect the interest of the public.
- Ensure that registered healthcare professionals behave appropriately towards users of health services, and in a manner that respects their constitutional rights to human dignity, bodily and psychological integrity and equality, and that disciplinary action is taken against persons who fail to act accordingly.

Contact Details:

Website:	hpcs.co.za
Telephone:	012 338 9300
Complaints e-mail:	legalmed@hpcs.co.za
Professional practice:	Professionalpractice@hpcs.co.za
Ombudsman:	Ombcomplaints@hpcs.co.za



South African Nursing Council

Purpose:

- To serve and protect the public in matters involving general health services - nursing services in particular.
- To uphold and maintain professional and ethical standards within the nursing profession.
- Establish, improve, control conditions, standards and quality of nursing education and training.

The South African Nursing Council may:

- Investigate complaints against a registered nurse and take appropriate disciplinary action to protect the interests of the public.
- Issue, remove, suspend, caution, reprimand or impose a fine against those found guilty.
- Publish the details of the unprofessional conduct and the names and qualifications in the Gazette (official government publication platform) of the persons against whom disciplinary action was taken within 30 days of the conclusion of such disciplinary action.

Contact Details:

Head office in Pretoria contact number:	012 420 1000
Report fraud line:	0800 201 216
Complaint e-mail address:	restoration@sanc.co.za
Website:	www.sanc.co.za

Domestic Violence / Protection from Harassment Courts

Purpose:

- **Domestic Violence courts** are specialised courts aimed at affording victims of domestic violence the maximum protection from domestic abuse that the law can provide.
- **Protection from harassment courts** are specialised courts aimed at affording victims of harassment legal protection.



These courts are designed to improve victim's safety and hold the abuser/harasser accountable for their actions.

The Domestic Violence and Protection from Harassment Courts may:

- Through the help of special court clerks, walk a victim through all the court processes and assist them with completing the relevant application forms for a protection order.
- Make the following orders:
 - **Interim Protection Orders** – A temporary protection order informing the respondent (the person the order is needed against) to appear in court on a future date, known as a return date, along with the complainant. The interim order affords the complainant/victim immediate, temporary protection until the final protection order is issued at the return date. The temporary order is only granted when the victim needs immediate protection.
 - **Final Protection Orders** – A final court order which tells the respondent to stop the abuse/harassment and sets out the conditions to prevent the abuse/harassment from happening again. Protection orders can also be used to legally force the abuser/harasser to continue meeting their responsibilities towards the complainant even with the order in place (e.g. abuser should continue paying rent/maintenance regardless of an existing PO).
- The violation of interim or final protection orders is considered a criminal offense and is punishable by law. The court may authorise the arrest of a person who violates the conditions of the Interim or final protection order (punishable by fine or imprisonment for a period not exceeding 5 years).
- The state has a legal obligation to provide financial assistance to a complainant who cannot afford the service. This does not include the administrative costs for printing / scanning / photocopies etc.

Contact Details:

All the courts of South Africa can act as Domestic Violence / Protection from Harassment Courts if you follow the rights complaints procedure.

You can visit your nearest court and ask to see the Clerk of Domestic Violence/Protection from Harassment Court, who can assist you with the correct forms.

Police – Contact:	10111/ 08600 10111
Domestic Violence Helpline:	0800 150150
Childline:	08000 55555



The Broadcasting Complaints Commission of South Africa (BCCSA)

Purpose:

Ensure the adherence to high standards in broadcasting and to achieve a speedy and cost-effective settlement of complaints against full members of the National Association of Broadcasters who have submitted themselves to the jurisdiction of the commissions and its codes.

The Broadcasting Complaints Commission of South Africa may:

Investigate complaints about any television or radio content that is discriminatory in nature and/or violates people's rights.

- Order an apology.
- Refer complaints to a tribunal hearing.
- Issue warnings and remove harmful content.
- Impose fines and sanctions (legal fines).

Contact Details:

Telephone: 011 326 3130
Fax: 011326 3198
International: +27 (11) 326 3130
Website: bccsa.co.za
E-mail: bccsa@nabsa.co.za



Press Ombudsman and the Appeals Panel

Purpose:

- To establish and maintain a voluntary independent mediation and arbitration process to deal cost-effectively and quickly with complaints from the public (e.g. to assist with complaints against journalists who have written and published - online and print - content which is considered discriminatory or that which violates people's rights).
- To uphold and promote the Constitution of the Republic of South Africa by protecting the right to freedom of expression and freedom of the press (freedom of expression should not violate the human rights of another person).

The Press Ombudsman and the Appeals Panel may:

- Investigate complaints – validate and dismiss complaints.
- Refer matters for mediation and arbitration.
- Issue warnings.
- Order a retraction and/or an apology.
- Impose fines.

Contact Details:

Contact number:	011 484 3612
General enquiries e-mail address:	enquiries@ombudsman.org.za
Website:	www.presscouncil.org.za





For more information or for assistance with reporting please contact the OUT-LGBT
Well-being Love not Hate Legal Clinic on the below details:

www.lovenothate.org.za

012 430 3272

report@lovenothate.org.za

1310 Stanza Bopape Street, Colbyn, Pretoria