

DP3: PCO gender-neutral language policy

Introduction

1. This document is *DP3: PCO Gender neutral language policy* (NSW Parliamentary Counsel's Office, 1st Ed, May 2017). It is a drafting practice document of the NSW Parliamentary Counsel's Office (*the PCO*).
2. The purpose of this document is to set out the Policy of the PCO concerning the use of gender-neutral language in legislative drafting. It represents the official view of the PCO on the topic. See [DP1: Using PCO drafting practice documents](#) under the heading "PCO drafting practices" on the [Legislation information](#) page of the NSW legislation website (www.legislation.nsw.gov.au).

Adoption of Policy

3. New South Wales was the first Australian jurisdiction to adopt gender-neutral language in legislation. In 1983, the Attorney General approved a proposal from the PCO that in the preparation of future legislation preference would be given to the use of gender-neutral language. The Policy was formally announced by the Governor on 16 August 1983 and has been strictly applied in the PCO ever since.

Applying the Policy

4. This section indicates how the Policy is usually applied.
5. The following gender-neutral terms are preferred if a general reference inclusive of both sexes is required:
 - "person" (rather than "man", "woman"),
 - "the person" (rather than "him", "her"),

- "the person's" (rather than "his", "her"),
 - "spouse" (rather than "husband", "wife").
6. No assumption is made in legislation that particular occupations or activities are exclusively carried out by men or women. Gender neutral terms for occupations, activities and other things are preferred where these are readily available and sensible, for example:
 - "worker" (rather than "workman"),
 - "administrator" (rather than "administratrix"),
 - "staffed", "crewed" (rather than "manned"),
 - "chairperson", "presiding member", "president", "convenor", "moderator" (rather than "chairman").
 7. Sex-based pronouns are to be avoided when the referent may not be of that sex. Techniques for avoiding the use of male pronouns include the following:
 - repeating the noun (*for example*, a person may seek office if ~~he~~ the person has taken the action necessary to qualify for the ballot),
 - omitting the pronoun (*for example*, a member of the Tribunal may resign ~~his~~ office),
 - converting a noun to a verb form (*for example*, if a person ~~makes his payments~~ pays by cheque),
 - using a relative clause (*for example*, an applicant who has been licensed in another State must submit the required

fee, instead of, if an applicant has been licensed in another State, he must submit the required fee),

- using the plural (*for example*, a ~~public official~~ public officials must withdraw from any matter in which ~~he has~~ they have a conflict of interest),
- using “they”, “them” and “their” to refer to a singular noun (*for example*, a person need not complete a new application if ~~he has~~ they have previously applied for a position),
- using masculine and feminine pronouns, although repeating the noun is preferable (*for example*, a police officer who is authorised to search a person may, in conducting the search, quickly run ~~his~~ his or her hands over the person’s outer clothing).

8. These techniques are not all suitable in all contexts. Some of these techniques (for example repeating the noun or using masculine and feminine pronouns) may produce awkward or artificial sounding sentences unless they are used in moderation. In some cases, a simple substitution of words will not be possible and some originality is required to re-express a particular matter.

9. The following provisions of the [Interpretation Act 1987](#) are noted:

- [Section 8 \(a\)](#) of the Act provides that in any Act or instrument “a word or expression that indicates one or more particular genders shall be taken to indicate every other gender”.
- [Section 19 \(2\)](#) of the Act provides that “The office of chairperson, chairman or chairwoman may be referred to by whichever of those words is appropriate in relation to the particular holder of that office.” This enables, for example, a chairman to be referred to as a chairperson. Conversely, it enables a chairperson to be referred to as a chairman or chairwoman if the incumbent desires this.

10. It is recognised that the terms of the Policy do not require the use of neutral words in inappropriate cases, for example:

- any laws that are to be uniform with laws of the Commonwealth or other States (following decisions of the Standing Committee of Attorneys-General or other similar decisions), and
- in some amendments to existing legislation where a change of language might produce a glaring inconsistency or a problem of interpretation, and
- where, by reasons of nature, a distinction between men and women, fathers and mothers, etc, is necessary.

Program to remove gender specific language in older legislation

11. In 1994, the PCO started a specific program to accelerate the removal of gender specific language in Acts that were enacted before 1983. This staged process involved directly amending Acts by way of the *Statute Law (Miscellaneous Provisions) Bills* that are usually passed in each parliamentary sitting. The project was largely completed in 1997. The removal of gender specific language in subordinate legislation has been dealt with incidentally by the scheme for staged repeal of subordinate legislation required under the [Subordinate Legislation Act 1989](#).