



Gay & Lesbian Rights Lobby

EVERYONE SHOULD BE EQUAL, ALL OF THE OF THE TIME – IMPROVING MENTAL HEALTH AND WELLBEING OUTCOMES FOR LESBIAN, GAY, BISEXUAL, TRANS* AND INTERSEX (LGBTI) CHILDREN IN AUSTRALIA

SUBMISSION TO THE AUSTRALIAN HUMAN RIGHTS COMMISSION INQUIRY INTO INTENTIONAL SELF-HARM AND SUICIDAL BEHAVIOUR AMONGST CHILDREN

JUNE 2014

ABOUT THE GAY & LESBIAN RIGHTS LOBBY

The New South Wales Gay and Lesbian Rights Lobby (GLRL) was established in 1988 and is the leading organisation for lesbian and gay rights in NSW. Our mission is to achieve legal equality and social justice for lesbians, gay men and their families. The GLRL has a strong history in legislative reform.

In NSW, we led the process for the recognition of same-sex de facto relationships, which resulted in the passage of the *Property (Relationships) Legislation Amendment Act 1999* (NSW) and subsequent amendments. The GLRL was also successful in campaigning for an equal age of consent in NSW for gay men in 2003 and the equal recognition of same-sex partners in federal law in 2008.

The rights and recognition of children raised by lesbians and gay men have also been a strong focus in our work for over ten years. In 2002, we launched *Meet the Parents*, a review of social research on same-sex families. From 2001 to 2003, we conducted a comprehensive consultation with lesbian and gay parents that led to the reform recommendations outlined in our 2003 report, *And Then ... The Bride Changed Nappies*. The major recommendations from our report were endorsed by the NSW Law Reform Commission's report, *Relationships* (NSWLRC Report No 113), and enacted into law under the *Miscellaneous Acts Amendment (Same Sex Relationships) Act 2008* (NSW). In 2010, we successfully lobbied for amendments to remove discrimination against same-sex couples in the *Adoption Act 2000* (NSW) and in 2013 we were instrumental in lobbying to secure the passage of anti-discrimination protections for LGBTI Australians, through amendments to the *Sex Discrimination Act 1984* (Cth).

INTRODUCTION

The NSW Gay and Lesbian Rights Lobby (GLRL) welcomes the opportunity to make a submission to this inquiry, focusing on the drivers of intentional self-harm and suicidal behaviour amongst lesbian, gay, bisexual, as well as trans* and intersex (LGBTI) children. Consistent with the definition of a child, as articulated in the United Nations Convention on the Rights of the Child (UNCROC), we limit our comments to those aged 18 years and younger.

We direct our comments to two key areas identified in the call for submissions, namely: (1) why LGBTI children engage in intentional self-harm or suicidal behaviour and (2) what can be done to improve health outcomes in respect of these indicators for this specific population group, including through digital technologies. We argue that intervening to reduce the burden of poor mental health and wellbeing outcomes currently experienced by LGBTI children, including intentional self-harm and suicidal behaviour(s), necessitates engaging with the principle of equity in health, as well as broader legislative and policy reform, to foster a more inclusive and responsive environment.

We are aware that other organisations will be providing input into your consultation process and that their submissions are likely to examine the issues facing trans* and intersex Australians in greater depth. Accordingly, we defer to them on these points.

1. WHAT IS DRIVING CURRENT, AND CHANGING, PATTERNS OF INTENTIONAL SELF-HARM AND SUICIDAL BEHAVIOUR FOR LGBTI CHILDREN?

LGBTI children and young people experience persistent disparities in mental health and wellbeing, measured across a range of indicators, including intentional self-harm and suicidal behaviour. The term intentional self-harm captures much of what would be considered suicidal behaviour, including “attempted hanging, impulsive self-poisoning and superficial cutting.”¹ The 2010 Australian Research Centre in Sex Health and Society (ARCSHS) report, *Writing Themselves In 3*, for example, found that:

- 31% of same sex attracted young people have **self-harmed**, and 37% have **considered self-harm**;
- 16% of same-sex attracted young people have **attempted suicide**, and 37% have **considered suicide**;
- Students who have experienced either verbal or physical abuse are 55% **more likely to self-harm or attempt suicide**.

These findings have largely been corroborated by the recent publication of the *Growing Up Queer* report, which found that LGBTI young people are six times more likely to have contemplated suicide than other young people.² Additionally, rates of excessive alcohol consumption, and smoking, which are linked to what has termed ‘minority stress’ arising from prejudice and discrimination, are elevated amongst the LGBTI population group, and particularly some sub-population groups.³ This is indicative of a state of inequity in health for LGBTI young people insofar as they are subject to “systematic disparities in health outcomes” as “social groups who have different levels of underlying social advantage/disadvantage - that is, different positions in a social hierarchy.”⁴

Discrimination, whether on the basis of sexual orientation, gender identity, or intersex status, is strongly associated with these poor mental health outcomes and data indicates that these forms of discrimination are pervasive in the Australian context, particularly for children and young people. The *Writing Themselves In 3* report clearly indicates that for many lesbian, gay, bisexual, trans* and questioning young people, school is often a more dangerous place than other spaces in which they engage.⁵ This is a situation that is often compounded for children or young people who identify as Aboriginal or Torres Strait Islander, from culturally or linguistically diverse backgrounds, or who have a disability.⁶

The *Writing Themselves in 3* report, which surveyed 3134 young people, found that:

¹ Skegg, K. (2005). Self-harm. *Lancet* 2005; 366: 1471–83

² Robinson, K.H., Bansel, P., Denson, N., Ovenden, N., Davies, C. (2014). *Growing Up Queer: Issues Facing Young Australians Who Are Gender Variant and Sexuality Diverse*. Sydney: Young and Well CRC, the University of Western Sydney and Twenty10.

³ Meyer, I.H. (2003). Prejudice, Social Stress, and Mental Health in Lesbian, Gay, and Bisexual Populations: Conceptual Issues and Research Evidence, *Psychological Bulletin*, 129(5): 674-697. See also: Pitts M, Smith A, Mitchell A, Patel S. (2006). *Private Lives: a report on the health and wellbeing of GLBTI Australians*. Melbourne: Gay and Lesbian Health Victoria and Australian Research Centre in Sex, Health and Society, La Trobe University Monograph Series Number 57.

⁴ Braveman, P. & Gruskin, S. (2004). Defining equity in health, *Journal of Epidemiology & Community Health* 57:254-258.

⁵ Hillier, L., Jones, T., Monagle, M., Overton, N., Gahan, L., Blackman, J., Mitchell, A. (2010). *Writing Themselves in 3: The Third national study on the sexual health and wellbeing of same sex attracted and gender questioning young people*. Melbourne: LaTrobe University.

⁶ Kassisieh, G. (2012). *We're Family Too: The effects of homophobia in Arabic-speaking communities in New South Wales*. Sydney: ACON.

- 18% of young gay, lesbian and same-sex attracted respondents nationally were **physically assaulted** because of their sexuality;
- 61% reported being **verbally abused** because of their sexuality;
- Of this homophobic abuse, 80% was reported to have occurred **at school**, which is an increase when compared to previous years of this study (1998 and 2004); and;
- Over half the young people reported homophobia having a negative impact on their studies.

In a study the NSW GLRL conducted over the past two years, participants reported experiencing discrimination across a range of settings, including in educational contexts.⁷ A 19 year old gay male, reflecting on his school experiences, commented:

After confiding in someone that I was gay, I quickly became the school's biggest target. The school I went to was composed mostly of students with strong religious backgrounds, in particular Islamic and Christian. I was picked on during class, was punched, and even burned with cigarettes on one occasion. At least one teacher saw, but a blind eye was turned.

Another student recounted similar experiences:

School was horrific, I was bullied and teased continuously for many years. It was hard for me to seek help. I felt there was no one to turn to from fear of how they will treat me! Because of my experience at school, it has had a great effect on my everyday life for many years and am still dealing with it now. Can you imagine as a 12 year old my biggest fear was letting some one know I was Gay from fear of how I will be treated and discriminated against. A big change in society is required and a good start can come from our leaders and the laws they put in place.

The pressure placed on people to 'come out', and subsequent issues with acceptance, was also reported to have deleterious health impacts, in terms of stress and anxiety:

...[T]he whole coming out process is a massive stress and certain people just don't accept you (Indigenous bisexual male, late teens).

Workplace discrimination can also act as a significant stressor in the lives of LGBTI young people. For example, a 2012 report by *Pride in Diversity* found that workers who were in the 18 - 24 age group were the least likely to be 'out', or feel comfortable disclosing their sexual orientation, in the workplace.⁸

Conversely, a supportive social environment, including in the family context, is associated with improved mental health and wellbeing outcomes. In the *Writing Themselves in 3* report a supportive family environment was found to reduce the likelihood of suicidal ideation or intentional self-harm, for example. This underscores the importance of examining not only 'risk', but protective factors in relation to intentional self-harm and suicidal behaviour(s) amongst LGBTI children and young people. However, a disparity in health outcomes still exists for LGBTI people, even after controlling for self-

⁷ Horner, J. (2014). *In Their Own Words: Lesbian, Gay, Bisexual, Trans* and Intersex Australians speak about discrimination*. Sydney: NSW Gay and Lesbian Rights Lobby, pp. 13-14.

⁸ Pride in Diversity. (2012). *2012 AWEI Employee Survey Results*. Sydney: Pride in Diversity.

reported discrimination as a factor, which has led some to argue that sexual orientation itself functions as a social determinant of health.⁹

These poor health outcomes, mediated by experiences of discrimination and other pathways, constitute disparities in health, insofar as they are ‘unfair, unjust and avoidable’ and are indicative of breaches of the right to health, as articulated in the International Covenant on Economic, Social and Cultural Rights, the Universal Declaration of Human Rights, and expressed in the constitution of the World Health Organization.¹⁰ Moreover, insofar as they engage experiences of discrimination, sometimes sanctioned through the existence of religious exemptions in anti-discrimination law, they represent violations of the right to non-discrimination, as articulated in the International Covenant on Civil and Political Rights (ICCPR). As such, any action to reduce intentional self-harm or suicidal behaviour(s) amongst LGBTI children in the Australian context necessarily requires legislative and policy reform to create enabling legal environments, which often precede broader social attitudinal shifts.

For this reason, we argue that it is critical that the current inquiry highlights the disparities in mental health and wellbeing experienced by LGBTI children, as well as the specific pathways contributing to such disparities, acknowledging that recognition is a necessary first step in effecting a paradigm shift in health and social policy, towards greater inclusion and responsiveness.¹¹

Recommendation 1: *That sexual orientation, and gender identity, be recognised as social determinants of health, with discrimination acknowledged as a key pathway to poor mental health and wellbeing outcomes, including intentional self-harm and suicidal behaviours.*

2. IMPROVING HEALTH OUTCOMES IN RESPECT OF THESE INDICATORS FOR THIS SPECIFIC POPULATION GROUP

The NSW GLRL is of the view that raising awareness of existing legal protections, and entrenching additional protections, at both legislative and policy levels, is critical to both the realisation of the right to health and, more specifically, to improving mental health and wellbeing outcomes for LGBTI children and young people. Here we refer to the responsibility of public institutions, including schools, to conduct themselves in a manner consistent with anti-discrimination protections on the basis of sexual orientation, gender identity or intersex status, included in the *Sex Discrimination Act* (1984).

In our view, it is also critical that current exemptions, maintained through both State and Federal anti-discrimination law(s), which effectively permit discrimination on the grounds of sexual orientation or gender identity, on the basis of the religious beliefs of the organisation(s) providing such services, should be removed. Indeed, they would appear to be contrary to the letter and spirit of the Hippocratic oath itself, as well as international human rights law. The Senate Legal and

⁹ Horner, J. & Roberts, N.J. (2014). Time to recognise sexual orientation as a social determinant of health. *Medical Journal of Australia*, 200(3): 137.

¹⁰ Whitehead (1992). The concepts and principles of equity and health. *International Journal of Health Services*, 22(3): 429-445.

¹¹ Whitehead, M. (1998). Diffusion of ideas on social inequalities in health: A European perspective. *Milbank Quarterly*, 76 (3): 469-492.

Constitutional Affairs Committee have already recommended this course of action, particularly in relation to government-funded service delivery.¹²

Instead, legal and policy frameworks should strive to create an enabling environment, to ensure that sexual orientation, gender identity or intersex status is not an impediment to timely access to acceptable, affordable and appropriate healthcare, including mental healthcare, services, as envisioned by the International Covenant on Economic, Social and Cultural Rights.¹³

In addition to legislative reform, and policy development, in the area of anti-discrimination law, there are many and varied points of intervention, at a range of levels, that could lead to positive change.

Foremost amongst these is a policy, and funding model, focused on the principle of equity, where those most vulnerable, and identified as in need, are targeted first. This ensures that, even in times of fiscal restraint, expenditure is targeted at those most in need, and ensures access to timely, accessible and acceptable health and social services, specifically in relation to mental health and wellbeing, including intentional self-harm or suicidal behaviours. In this respect, we argue that investing in religious programmes, such as school chaplaincy, absent a consideration of the needs of many young people who do not feel comfortable accessing such services, runs contrary to principles of equity.

There are, however, specific policy areas that have the potential to reduce the incidence, or impact, of homophobic, bi-phobic or transphobic discrimination or violence, and which we argue should be explicitly acknowledged by this inquiry and prioritised as points of intervention. These include:

- *The National Health and Physical Education curriculum (ACARA)*

The national health and physical education curriculum provides an opportunity to not only modernise, but also streamline, the quality of health and sexual education young Australians receive, in addition to recognising the diversity that exists within our society. The NSW GLRL has made two written submissions during the consultation process on the draft curriculum document and has engaged in public advocacy on this issue, including through the media and through writing to decision makers.¹⁴ Whilst the latest draft of the curriculum includes a reference to bullying on the basis of same-sex attraction, there is still no explicit reference to the terms lesbian, gay or bisexual, for example.

- *National Safe Schools programme (Foundation for Young Australians and State and Territory lead agencies)*¹⁵

The Safe Schools Coalition Australia model grew out of Federal Government appropriations in this area, as well as the success of the Victorian Safe Schools model, which has operated for a number of years. The Foundation for Young Australians administers the scheme, through State-based partner

¹² Senate Legal and Constitutional Affairs Legislation Committee (2013). *Exposure Draft of the Human Rights and Anti-Discrimination Bill 2012*. Canberra: Commonwealth of Australia, p.x

¹³ Committee on Economic Social and Cultural Rights (2000). General Comment no. 14: The right to the highest attainable standard of health,' E/C.12/2000/4.

¹⁴ Horner, J. (2013). *An inclusive national health and physical education curriculum*. Submission to the Australian Curriculum Assessment and Reporting Authority Consultation Draft of the National Health and Physical Education Curriculum. Sydney: NSW Gay and Lesbian Rights Lobby.

¹⁵ See: <http://www.fya.org.au/initiatives/safe-schools-coalition-australia/>

organisations, who will build relevant local partnerships to ensure the dissemination of resources and the ongoing viability of the programme at a state-level. In many states, this means that young people, educators and families will have access to resources about sexual orientation, gender identity or intersex status, where they may otherwise have not. It will also expand the reach of interventions aimed at improving outcomes for LGBTI children and young people in schools.

- *The Anti-homophobia and Inclusion Framework*¹⁶

The Anti-Homophobia and Inclusion Framework seeks to eliminate homophobia and biphobia from five sporting codes and includes a number of pillars and action items. Through inclusion of trans* and intersex concerns in the near future, the framework engenders potential to reduce the incidence and impact of discrimination and violence on the basis of sexual orientation, gender identity or intersex status on the sports field as well as in the stands and amongst the broader community. For this reason, it has the potential to deliver tangible benefits for all members of the LGBTI community, including children and young people.

Recommendation 2: *That religious exemptions, and particularly those that pertain to service provision, as largely maintained through State and Federal anti-discrimination legislation, be removed.*

Recommendation 3: *That funding models, and interventions, targeted at reducing rates of intentional self-harm or suicidal behaviour afford primacy to the principle of equity in health, with those most vulnerable prioritised.*

Recommendation 4: *That an independent strategy be developed and implemented focusing on a reduction in homophobia and discrimination, and providing a target for a reduction of rates of intentional self-harm and death by suicide in LGBTI young people.*

Recommendation 5: *That an inclusive and responsive national health and physical curriculum be adopted by the Commonwealth and State and Territory Governments, which explicitly acknowledges the deleterious effects of bullying, whether on the basis of sexual orientation, gender identity or intersex status and includes reference to the identities lesbian, gay, bisexual, trans* and intersex.*

Recommendation 6: *That the Safe Schools Coalition Australia programme, which seeks to foster inclusive school contexts for LGBTI young people, continue to be supported by the Commonwealth Government, including through the Department of Education, as well as through future budget appropriations.*

3. SUMMARY

- LGBTI young people experience persistent disparities in mental health and wellbeing, including across key indicators such as intentional self-harm and suicidal ideation.

¹⁶ Anti-Homophobia & Inclusion Framework For Australian Sports. Sydney: Australian Human Rights Commission and Bingham Cup. See: <http://binghamcup.com/wp-content/uploads/2014/04/Anti-homophobia-framework-low-res.pdf>

- LGBTI young people are at heightened risk of experiencing verbal abuse, discrimination, and physical violence, particularly in the school setting and there is an association between such forms of discrimination and violence and poor health outcomes across a range of indicators, including mental health and wellbeing.
- On the basis of this evidence, two forms of intervention should be prioritised (1) enacting anti-discrimination legislation that provides no recourse to religious exemptions and the adoption of policies consistent with this approach at an institutional level; and; (2) intervening in the school setting, and online, to create safe and inclusive environments for LGBTI young people, as well as their friends and families.

4. CONTACT

For further information in relation to this submission, please contact Jed Horner, NSW GLRL Policy and Project Officer