

Ms Megan Mitchell
National Children's Commissioner
Australian Human Rights Commission

Sunday 1 June 2014

Dear Commissioner

SUBMISSION TO INQUIRY INTO INTENTIONAL SELF-HARM AND SUICIDAL BEHAVIOUR IN CHILDREN

Thank you for the opportunity to provide a submission to your inquiry into intentional self-harm and suicidal behaviour in children.

This is an incredibly important topic, and I congratulate you, as National Children's Commissioner, for utilising your position to shine a spotlight on this national tragedy.

I write this submission as an individual, and not on behalf of any organisation. I also write this as a gay man, and someone who, as a teenager, experienced significant mental health issues, including depression and suicide ideation, because of the severe homophobia that I experienced, particularly in high school.

Given this perspective, in this submission I will focus on the over-representation of young lesbian, gay, bisexual, transgender and intersex (LGBTI) people in intentional self-harm and suicide.

I will also make five recommendations for how to help reduce this over-representation, although obviously this is not an exhaustive list of all the possible ways in which LGBTI youth suicide may be tackled.

Please find my submission attached. I am of course willing to be contacted to discuss anything contained in this submission, at the details below.

Sincerely

SUBMISSION TO INQUIRY INTO INTENTIONAL SELF-HARM AND SUICIDAL BEHAVIOUR IN CHILDREN

I welcome the acknowledgement, in the Call for Submissions released on 22 April, that self-harm and suicide is a particular issue for LGBTI children and young people.

In particular, the Call for Submissions cites the 2013 *Growing Up Queer* report, by the Young and Well Co-operative Research Centre, in finding that, of 1,032 children and young people aged 16 to 23, 41% of participants had thought about self-harm and/or suicide, 33% had harmed themselves and 16% had attempted suicide.

These are truly shocking figures – especially that 1 in 6 young lesbian, gay, bisexual, transgender and intersex Australians had attempted suicide. However, despite being shocking, they are not particularly surprising, especially as they replicate similar findings in a range of studies over the past 15-20 years.

The over-representation of self-harm and suicidal thoughts amongst same-sex attracted and gender diverse/questioning young people has been confirmed in all three *Writing Themselves In* reports, produced by the Australian Research Centre in Sex, Health & Society at La Trobe University in 1998, 2004 and 2010, respectively.

The over-representation of mental health issues within the broader LGBTI community, including among its young people, has also been confirmed by both the original *Private Lives: A report on the health and wellbeing of GLBTI Australians* study in 2005, and *Private Lives 2*, released in 2012 (also produced by the Australian Research Centre in Sex, Health & Society).

As well as knowing that intentional self-harm and suicidal behaviour disproportionately affects LGBTI children and young people, we also know the cause – the pervasive homophobia, biphobia, transphobia and anti-intersex prejudice which LGBTI youth experience, within their families, amongst their peers, in the media/culture, and especially in their schools.

As reported in *Growing Up Queer*, “[f]or many, rejection, alienation, bullying, and harassment often led to depression, suicidal ideation, and attempted suicide. Some participants spoke openly about multiple suicide attempts as a result of negotiating their sexual/gender orientation at school, at home, and in their broader communities” (page ix).

The *Writing Themselves In 3* study also found a direct link between verbal abuse and physical abuse with thoughts of self-harm. As noted on page 51: “[a]lmost double the number of young people who had been verbally abused (40%), in comparison to those who had experienced no abuse, had thought of self-harm (22%). Three times those who had been physically abused (62%), in comparison to those who reported no abuse, had thought of self-harm.”

Writing Themselves In 3 also confirmed that “[t]he most common place of abuse remained school with 80% of those who were abused naming school. This continues the trend of *increased* levels of reported homophobic violence in schools (69% in 1998; 74% in 2004)” (pix, emphasis added).

By knowing the problem – the over-representation of LGBTI children and young people in intentional self-harm and suicidal behaviour – and the cause – the pervasive homophobia, biphobia, transphobia and anti-intersex prejudice which confronts young people, including (but not limited to) at school – we must start to consider the solution.

What are the best ways to protect LGBTI children and young people from discrimination, bullying and abuse on the basis of their sexual orientation, gender identity or intersex status? And what are the best ways to actively promote positive views of, and self-esteem and mental health within, LGBTI children and young people (noting that these are not necessarily the same question)?

The following are five reforms which I believe, if adopted, would help to reduce the continued over-representation of lesbian, gay, bisexual, transgender and intersex young people in self-harm and suicide:

Recommendation 1: Remove anti-discrimination exemptions/exceptions which allow religious schools to discriminate against LGBT students

As indicated above, one of the key areas where LGBTI children and young people are discriminated against is in their schools. Unfortunately, in most states and territories in Australia, religious schools enjoy legal protections which allow them to actively discriminate against LGBT students (and, it should be remembered, to discriminate against LGBT teachers and even parents too).

NB I have excluded intersex students for the remainder of this particular discussion given I understand the two jurisdictions which have explicit intersex anti-discrimination protections – Tasmania and the Commonwealth – do not allow religious exceptions to these protections.

These exemptions allow religious schools to expel LGBT students, to tell same-sex attracted and gender-diverse/questioning students that they are somehow ‘wrong’, ‘unnatural’ or even ‘sinful’, to prohibit certain behaviours or actions on the basis of sexual orientation or gender identity, and to ignore the educational and emotional needs to young LGBT people in general.

An example of this discrimination was found in the ‘Statement of Faith’ by the Penrith Christian School, which stated that: “[w]e believe that homosexuality and specific acts of homosexuality are an abomination unto God, a perversion of the natural order and not to be entered into by His people” and “[w]e believe the practice of attempting to or changing ones gender through surgical and/or hormonal or artificial means is contrary to the natural order ordained by God.”

These statements came to light, and attracted significant public scrutiny, only after the then Opposition Leader, the Hon Tony Abbott MP, launched the Coalition's education policy there during last year's election campaign. But, it must be pointed out that there is absolutely nothing unlawful for this school, or others like it, to adopt these principles, or to enforce policies based upon them to the detriment of the LGBT students in its classrooms.

This is because in NSW, section 56(d) the *Anti-Discrimination Act 1977* states that anti-discrimination coverage for lesbian, gay and trans* people does not protect them against "any... act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

In an absolutely extraordinary extension of these exceptions, the NSW Act also explicitly excludes all "private educational authorities" (including non-religious bodies) from having to comply with any obligation not to discriminate on the basis of homosexuality (section 49ZO(3)) and transgender status (section 39K(3)).

Sadly, despite only being introduced last year, Commonwealth anti-discrimination protections on the basis of sexual orientation and gender identity are also fundamentally undermined by the granting of wide-ranging exemptions to religious organisations.

As well as an equivalent clause to NSW's section 56(d) – section 38(1)(d) of the *Sex Discrimination Act 1984* exempts "any... act or practice of a body established for religious purposes, being an act or practice that conforms to the doctrines, tenets or beliefs of that religion or is necessary to avoid injury to the religious susceptibilities of adherents of that religion" (although not in relation to aged care) – the Commonwealth Act also includes the following in section 38(3):

"Nothing... renders it unlawful for a person to discriminate against another person on the ground of the other person's sexual orientation, gender identity, marital or relationship status or pregnancy in connection with the provision of education or training by an educational institution that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed, if the first-mentioned person so discriminates in good faith in order to avoid injury to the religious susceptibilities of adherents of that religion or creed."

In practice, both Commonwealth and NSW law gives effective carte blanche to religious schools to discriminate against, and ignore the genuine needs of, LGBT children and young people. If we are genuinely interested in the mental health and welfare of young lesbian, gay, bisexual and transgender Australians, then these exceptions must be removed.

Those who would argue against such a proposition cite 'freedom of religion' as somehow trumping the right of LGBT people to live their lives free from

discrimination. Indeed, the then shadow, and now Commonwealth, Attorney-General, Senator the Hon George Brandis, made exactly that argument on the ABC's *QandA* program in June 2013.

As I have written on numerous occasions, I strongly disagree with that argument – I do not believe that religious exemptions should extend beyond the appointment of religious office-holders or the conduct of religious ceremonies. I certainly do not believe there should exist a broad right for religious organisations to discriminate against LGBT people in public life.

However, even if some form of religious exemption or exception were to continue in the public sphere, it is incredibly difficult for anyone to make the case that the 'freedom' of a religious school to discriminate should override the ability of a young lesbian, gay, bisexual or transgender student to receive their education free from such discrimination – something which is and should be recognised as a fundamental right.

These are vulnerable young people, who, in the vast majority of cases, are in the process of discovering or accepting their sexual orientation and/or gender identity. In nearly all cases, they do not decide which school they attend, including whether it is religious or not (a decision which is normally made for them by their parents, often without specific knowledge of their child's sexual orientation or gender identity). In many cases, they are also not open about their sexual orientation or gender identity at school, meaning that they are not even in a position to advocate on their own behalf when they encounter such prejudice.

In short, I think it is simply untenable to argue that the freedom of a religious school to discriminate trumps the right of LGBT students not to be discriminated against, especially when the consequence of this discrimination includes an increased risk of mental health issues, including depression, self-harm and most tragically suicide. This not a contest of equal rights, no balancing act is required – the rights of the students should always win.

In the past week, there has been discussion in the United States about trying to 'balance' two other supposedly competing rights – the Second Amendment 'right to bear arms', with the right to personal safety of others. As part of that discussion, Samuel Wurzelbacher (aka Joe the Plumber) wrote to the parent of one of the young people murdered in the Santa Barbara mass shooting and said:

"I am sorry you lost your child. I myself have a son and daughter and the one thing I never want to go through, is what you are going through now. But: As harsh as this sounds – your dead kids don't trump my Constitutional rights."

Mr Wurzelbacher's comments have, quite understandably, attracted heavy criticism in the US, as well as around the world. From an Australian perspective, where more restrictive gun control laws have existed since the Port Arthur massacre in 1996, it is tempting to adopt a certain smugness, and look down upon the level of public debate in the US that such a comment is even possible.

But, in some respects at least, we are prepared to strike a similar bargain here when it comes to the deaths of LGBTI children and young people. We know that they are significantly over-represented in suicide numbers, and we know that the discrimination that LGBTI students experience in school is a major contributing factor to these suicides.

Yet, as a society, we are willing to turn a blind eye to this, and say that religious freedom, and specifically the ‘freedom’ of religious schools to discriminate on the basis of sexual orientation and gender identity, is more important than the lost lives of these young people. In effect, our current anti-discrimination law says that ‘dead LGBT kids don’t trump the rights of religious schools.’

It is time we recognised, and remedied, this situation. It is time we removed anti-discrimination exemptions and exceptions which allow religious schools to discriminate against LGBT people.

Recommendation 2: Amend the National Health & Physical Education Curriculum to be genuinely LGBTI-inclusive

One of the key issues to emerge from both the *Growing Up Queer*, and *Writing Themselves In 3* reports, is the absence, or comparative lack of, a genuinely LGBTI inclusive curriculum, especially with respect to Health & Physical Education.

For example, *Growing Up Queer* reported that “[p]articipants indicated that sex education at school was heteronormative and focused on reproductive sex only. It was perceived as irrelevant to their needs.” Further, “[p]articipants noted that whilst they received no education about queer sexualities their identities were often ‘sexualised’, with teachers and peers making assumptions about their sexuality and treating them differently on the basis of these assumptions” (pix).

Writing Themselves In 3 confirms this comparative lack of attention: “[s]exuality education was not provided at all to 10% of participants, and when it was, only 15% found it useful. It was clear that quite conservative messages emphasizing heterosexual sex and danger are the norm in most Australian schools with a far smaller number providing messages inclusive of SSAGQ youth” (pxi).

Of course, LGBTI people and content should be visible across multiple parts of the school curriculum (including, for example, history and politics), rather than arbitrarily confined to Health & Physical Education (HPE). Nevertheless, if LGBTI students and issues are excluded from, and made invisible in, the HPE curriculum, it is difficult to imagine them being included elsewhere.

I also agree with the statement in *Growing Up Queer* that “[y]oung people’s access to comprehensive sexuality education in primary and secondary schooling is a right, and is central to sexual citizenship and the fostering of health and wellbeing in all young people” (pix).

Over the past two years, a new National HPE curriculum has been developed by the Australian Curriculum, Assessment & Reporting Authority (ACARA). Unfortunately, all three versions of the HPE curriculum – the original consultation draft released in December 2012, the revised consultation draft in mid-2013, and the version that was noted but not yet endorsed by COAG Ministers in December 2013 – have comprehensively failed to deliver a genuinely LGBTI-inclusive document.

For example, in none of the three versions of the HPE curriculum have the words lesbian, gay or bisexual even appeared (although, on a slightly more positive note, the most recent version of the HPE curriculum does at least include the words transgender and intersex, and, unlike an earlier version, actually distinguishes between the two).

Despite lesbian, gay and bisexual being the most common forms of identification for people whose sexual orientation is ‘not heterosexual’, these terms have never appeared in any version of this document. This is an appalling exclusion, making young people with diverse sexual orientations even more invisible in the school environment than they already are.

The aspirational ‘student diversity’ statement at the beginning of the document, which attempts to highlight the needs of ‘same-sex attracted, gender diverse or intersex’ students, is also undermined by the inclusion of a sentence noting that it “is designed to allow schools *flexibility* to meet the learning needs of all young people, particularly in the health focus area of relationships and sexuality” (emphasis added) and another that “[a]ll schools communities have a responsibility when implementing the HPE curriculum to ensure that teaching is inclusive and relevant to the *lived experiences* of all students” (emphasis added).

Both of these statements appear to leave the decision whether, and in what way, schools will include LGBTI students and content up to the schools themselves. In the first instance, whether LGBTI students and content are included at all is too important to be left to the ‘flexibility’ of the school itself.

Second, and far more importantly, the reference to ‘lived experiences’ could be argued to leave a loophole for schools to assert that, unless students first identify themselves or disclose their status as LGBTI, they do not exist in the eyes of the school and therefore the school does not have a responsibility to include them or content relevant to their needs.

This approach – apparently leaving it up to students to ‘come out’ before they are entitled to receive vital health information, despite the fact that doing so can, in many Australian jurisdictions, lead to the potential expulsion of that student, let alone other personal consequences for the student with their family or friends – fundamentally undermines the concept of health, and health education, as a universal human right.

There are multiple other problems in the draft National Health Physical Education Curriculum – including a lack of comprehensive sexual health

education, and the complete absence of any references to Sexually Transmissible Infections (STIs) and Blood Borne Viruses (BBVs) such as HIV or viral hepatitis.

For more detail on the problems of the national HPE curriculum, and its exclusion of LGBTI students and relevant content, please see my submission to the 'Students First' review of the National Curriculum, provided at Attachment A.

This review, initiated at the request of the Commonwealth Education Minister, the Hon Christopher Pyne MP, is not due to report to him until 31 July, 2013. It will then be considered by Commonwealth and State and Territory Education Ministers at their next COAG meeting, scheduled for 12 December 2014.

That means there is still time to argue for a genuinely LGBTI-inclusive Health & Physical Education curriculum. There remains an opportunity for individuals and organisations, including the Australian Human Rights Commission, to call for a document that does not simply entrench the existing exclusion and invisibility of LGBTI students in classrooms around the country, but actively tries to provide for the needs of all students, including those with diverse sexual orientations, gender identities and those who are intersex.

I urge you, as National Children's Commissioner, to intervene in this process, and call on the people undertaking the Students First Review, as well as Commonwealth, State and Territory Education Ministers, to amend the national Health & Physical Education curriculum to serve the needs of all students.

Such amendments are vital to help include lesbian, gay, bisexual, transgender and intersex students, and content relevant to their needs. Doing this would help reduce the isolation experienced by LGBTI children and young people, and therefore contribute to lower mental health issues overall, including reduced intentional self-harm and suicidal behaviour.

Recommendation 3: Ensure all schools & school systems adopt pro-active programs against homophobia, biphobia, transphobia and anti-intersex prejudice

Combatting the homophobia, biphobia, transphobia and anti-intersex prejudice which LGBTI children and young people experience in schools, and which causes mental health issues such as self-harm and suicide, is not just about anti-discrimination laws (which in some cases can be reactive, rather than pro-active), or implementing an inclusive curriculum, but it also includes ensuring the entire school environment is 'safe' for these students, because often what happens outside the classroom is more important than what happens inside.

This can be achieved through the implementation of comprehensive programs tackling homophobia, biphobia, transphobia and anti-intersex prejudice in as many schools as possible, in as many states and territories as possible, and in as many different types of schools (government, private and religious) as possible.

An example of such a program is the Safe Schools Coalition of Victoria, an initiative that has already achieved 131 member schools, trained 4,555 staff, and reached 20,557 students (data from www.safeschoolscoalitionvictoria.org.au)

From the Safe Schools Coalition Victoria (SSCV) website:

“Safe Schools Coalition Victoria (SSCV) is a coalition of schools and individuals dedicated to creating safer educational environments where every family can belong, every teacher can teach, and every student can learn.

“Working in partnership with the Victorian Department of Education and the Department of Health, Safe Schools Coalition Victoria (SSCV), is a ground breaking program that aims to make all schools safe and supportive places for same sex attracted, intersex and gender diverse (SSAIGD) students, teachers and families.

“The first initiative of its kind in Australia, SSCV was founded as part of Gay and Lesbian Health Victoria within the Australian Research Centre in Sex, Health & Society at La Trobe University in 2010. We work together with an active network of member schools across all age groups in the government, independent and faith-based sectors.

“This coalition model allows us to reach thousands of teachers and school staff to raise awareness and build the skills and confidence needed to actively support gender and sexual diversity in the classrooms, corridors and schoolyards of Victoria...”

The SSCV model supports member schools in a variety of ways including staff and student audits, professional learning, resources and consultations.

Unfortunately, a small-scale pilot project, targeting homophobia in NSW government schools from 2011 to 2013 – called ‘Proud Schools’ – was abandoned, seemingly without explanation, at the beginning of 2014 by the State Education Minister, the Hon Adrian Piccoli MP. At this stage, I am not aware of any specific initiative which has replaced it, leaving a significant gap this year where an anti-homophobia program should be.

However, I am aware that the Foundation for Young Australians will be launching a national version of the Victorian model – the Safe Schools Coalition Australia – at a national symposium in Melbourne on Friday 13 June 2014 (details here: <https://www.etches.com/ehome/87262>).

It is unclear which State and Territory Governments are supportive of this new national initiative, which is being funded by the Commonwealth Department of Education (announced by the previous Government ahead of last year’s election). It is my sincere hope that all State and Territory Governments support the rollout of the Safe Schools Coalition Australia, and that as many schools as possible join.

This includes government, private and religious schools, as well as geographically diverse (metro, regional and rural/remote) schools, because it should not matter what school an LGBTI child or young person attends, or where they live, they have a fundamental right to an inclusive and supportive education.

I would also expect the Australian Human Rights Commission, and you as National Children's Commissioner, to be supportive of different schools and school systems adopting pro-active programs against homophobia, biphobia, transphobia and anti-intersex prejudice, as another way to improve the mental health of young LGBTI people around Australia, and thereby help to reduce the over-representation of LGBTI youth in self-harm and suicide statistics.

Recommendation 4: Ban ex-gay or reparative therapy

The practice of 'ex-gay' or 'reparative' therapy involves organisations, usually religious, offering so-called 'counselling' to help transform people who are lesbian, gay or bisexual into being heterosexual, and in some cases to attempt to transform people who are trans* into being cisgender. NB I am unaware of the use of reparative therapy with respect to intersex people, and so have omitted intersex from this discussion.

Ex-gay or reparative therapy attempts to change a person's sexual orientation or gender identity because of the belief that being lesbian, gay, bisexual or trans* is somehow 'wrong', 'unnatural' or 'sinful'. There are three main problems with ex-gay or reparative therapy.

First, there is absolutely nothing wrong, unnatural or sinful with being lesbian, gay, bisexual or trans*. Differences in sexual orientations and gender identities are entirely natural, and this diversity should be accepted and celebrated. Any attempts to prevent people from being LGBT simply demonstrate the homophobia, biphobia and transphobia of the people running ex-gay organisations.

Second, there is absolutely no scientific evidence to support these practices. Sexual orientation and gender identity cannot be 'changed' through these interventions. Indeed, the Australian Psychological Society, Royal Australian and New Zealand College of Psychiatrists and Pan American Health Organisation all note that reparative therapy does not work, and recommend against its practice.

Third, and most importantly, not only is ex-gay therapy based on homophobia, biphobia and transphobia, as well as discredited 'pseudo-science', but it is also fundamentally dangerous. Reparative therapy takes people who are already vulnerable, tells them that they are inherently wrong, and asks them to change something about themselves that cannot be changed. Inevitably, it leads to significant mental health problems, including self-hatred, depression and tragically, in some cases, suicide.

The people that run ex-gay organisations are guilty of inflicting psychological and sometimes physical damage on others. When it involves children and young people, it is nothing short of child abuse.

Fortunately, the practice of ex-gay or reparative therapy is far less common in Australia than it is in the United States. In recent years, the number of organisations which provide this 'counselling' here has also declined. Nevertheless, ex-gay or reparative therapy still exists in Australia, it still damages and breaks people, and it still requires an appropriate policy response.

Given the level of harm that is perpetrated by these people, I believe Australian jurisdictions should introduce legislative bans on ex-gay or reparative therapy. This should include the creation of a criminal offence for running ex-gay therapy, with an aggravated offence for running ex-gay therapy for people under the age of 18. This is necessary to send a signal that these homophobic, biphobic and transphobic practices are no longer tolerated in contemporary society, and especially in the case of minors.

Finally, while at this stage I am not aware of evidence linking registered medical practitioners with these discredited practices, there is evidence overseas that some counsellors, psychologists, psychiatrists or other registered medical practitioners either practice ex-gay therapy themselves, or will refer patients to ex-gay organisations. Any medical practitioners found to be engaging in these practices in Australia should also receive additional sanctions, including potential deregistration and civil penalties.

Recommendation 5: Fund a national media and social media campaign against homophobia, biphobia, transphobia and anti-intersex prejudice

The first three of the recommendations above specifically target schools, not only because research has shown that schools are a major source of the discrimination and prejudice which LGBTI children and young people experience, but also because schools provide an opportunity to exert significant influence in terms of improving social attitudes and directly reducing homophobia, biphobia, transphobia and anti-intersex prejudice.

However, it should be remembered that a) not all discrimination and prejudice originates in schools and b) it is also unfair to expect that schools themselves, acting alone and somehow magically separated from the rest of society, can overcome these serious ills on their own.

It is also important to note that, while 80% of young people in *Writing Themselves In 3* identified school as a site for physical or verbal abuse, significant numbers of young LGBTI people also nominated other places in their lives where they are subjected to discrimination and prejudice.

For example, more than 40% cited a social occasion as a place of abuse in 2010 (and like schools, this was an increase from the 1998 and 2004 surveys), and

almost 40% indicated they had been abused on the street (although this was down on previous surveys). Meanwhile, approximately a quarter indicated they had been verbally or physically abused at home on the basis of their sexual orientation or gender identity.

It is also not hard to find numerous examples, in the media and culture more generally, of the everyday homophobia, biphobia, transphobia and anti-intersex prejudice, which all LGBTI people are subjected to, but which have a particular impact on LGBTI children and young people.

For example, just in the last month, we have witnessed an NRL player describe another player as a “f---ing gay c—t”, which was subsequently defended by a prominent national columnist, in an article titled “NRL bosses are totally gay”, as somehow not being homophobic. We have had a TV host rant about NFL footballer Michael Sam simply kissing his male partner live on air (describing it as “annoyingly gratuitous”), a Senator-elect tweet that being gay as a ‘lifestyle’ and link it with promiscuity, as well as a State MP indicate his belief that same-sex parenting would hurt that couple’s children.

That is just a small sample of the ‘slings and arrows’ of homophobia, biphobia, transphobia and anti-intersex prejudice which LGBTI Australians are exposed to all too frequently. For many of us, while such comments are offensive, and sometimes hurt, they do not necessarily lead us to self-harm, or cause significant emotional and mental anguish.

Nevertheless, for those who are already vulnerable, including some adults, but especially for young people who may still be coming to terms with being LGBTI, hearing such messages can directly cause harm, and contribute to or worsen existing mental health concerns. This harm is exacerbated if these negative statements are all that the young person hears with respect to being lesbian, gay, bisexual, transgender or intersex, and are not balanced or countered with equivalent positive messages.

Which is why I believe there would be utility in the Commonwealth Government directly funding a large national media, including social media, campaign against homophobia, biphobia, transphobia and anti-intersex prejudice. But rather than simply tackling the ‘negative’, I think such a campaign should also express a positive message about diversity of sexual orientations, gender identities and intersex status – sending the message that being LGBTI is natural, and that heterosexual, cisgender and LGBTI young people all deserve equality, and equal dignity in all aspects of life.

While there have been some great initiatives at state government level in this regard, as well as some excellent work by relevant not-for-profits/NGOs and even individuals (with campaigns like Victoria’s No to Homophobia, and the Beyond ‘That’s So Gay’ work of Daniel Witthaus), the involvement of the Commonwealth could bring benefit, both in terms of scale of resources, and by reaching LGBTI children and young people across Australia.

Of course, any such campaign would need to be co-ordinated with LGBTI organisations, as well as organisations that work in the mental health sector. But most important would be the involvement of young LGBTI people themselves.

The media and social media campaign would need to be designed so as to be relevant to young people, not just those that are LGBTI, but also to their non-LGBTI peers, in order to increase their own understanding and lessen any bullying or harassment of their friends and classmates. Young LGBTI people (and certainly people much younger than myself) would be best placed to advise on how to make such a campaign work.

I would also point out that I have made this particular recommendation in response to term of reference number eight in the Call for Submissions (namely “[t]he feasibility and effectiveness of conducting public education campaigns aimed at reducing the number of children who engage in intentional self-harm and suicidal behaviour”).

I acknowledge there are particular sensitivities in designing campaigns which specifically target those already at risk of self-harm and suicide, with the possibility that the campaign itself triggers particular negative responses. I am not an expert in this area and so am not in position to suggest whether, and if so how, an appropriate campaign could be designed that focused directly on LGBTI children and young people and that explicitly discussed self-harm or suicide – I am sure other individuals and organisations who are experts in this area will be doing so much more effectively in their own submissions.

But I do believe that an overarching campaign, which addresses the root cause of much of those problems – the homophobia, biphobia, transphobia and anti-intersex prejudice which young LGBTI people experience everyday – would provide its own additional benefits in terms of long-term mental health improvement.

Those are the five key recommendations that I would like the Australian Human Rights Commission, and you as the National Children’s Commissioner, to focus on in terms of examining how to reduce the disproportionate effects of self-harm and suicide on LGBTI children and young people.

Obviously, that is not an exhaustive list. There are other areas which are worthy of examination, including considering whether LGBTI people should be protected against vilification in the same way that Commonwealth law currently protects against racial vilification (through section 18C of the *Racial Discrimination Act 1975*).

I believe there would also be benefit in considering how best to fund, on a secure and ongoing basis, LGBTI community organisations to deliver services to young LGBTI people at risk, as well as how to ensure that mainstream mental health and general health services are inclusive of, and respond to the needs of, LGBTI children and young people. But once again, I would expect that other individuals

and organisations will be much better placed to make submissions with respect to those topics.

In conclusion, I would like to express my thanks to the Australian Human Rights Commission, and to you as National Children's Commissioner, for choosing to initiate an inquiry into intentional self-harm and suicidal behaviour in children and young people.

The rate of youth self-harm and suicide amongst all of Australia's youth, including but not limited to young lesbian, gay, bisexual, transgender and intersex youth, is truly a national tragedy.

I appreciate the opportunity to make a submission to this inquiry, and look forward to seeing the Final Report in the Commissioner's 2014 Statutory Report to Commonwealth Parliament.

Sunday 1 June 2014

National Curriculum Review Submission

Thursday 13 March 2014

Thank you for the opportunity to make a submission on the development of the national school curriculum.

In this submission I will limit my comments to the development of the national Health & Physical Education (HPE) curriculum. In particular, I will be commenting on whether the HPE curriculum as drafted addresses the needs of, and genuinely includes, lesbian, gay, bisexual, transgender and intersex (LGBTI) students.

I have previously made submissions on the initial public consultation draft of the HPE curriculum, released in December 2012 (a copy of my submission is provided at **Attachment A**), and on the revised draft released for limited public consultation in June and July 2013 (see **Attachment B**).

In both of those submissions I was strongly critical of the fact that the draft HPE curriculums did not genuinely attempt to include LGBTI students (including omission of the words lesbian, gay or bisexual), did not provide adequate sexual health education, and did not provide adequate information regarding HIV and other Blood Borne Viruses (BBVs), including viral hepatitis.

A second revised draft of the curriculum was prepared by the Australian Curriculum, Assessment and Reporting Authority (ACARA) ahead of the meeting of Commonwealth, State and Territory Education Ministers in November 2013. It has been reported that Education Ministers did not agree to the second revised draft, but instead simply noted its development in anticipation of this review.

Nevertheless, the second revised draft HPE curriculum was published in February 2014 on the Australian Curriculum website (www.australiancurriculum.edu.au).

I have analysed the second revised draft, and sincerely hope that my comments below convey the seriousness of my concerns about the ongoing exclusion of LGBTI students and content, and the potential negative health impacts that this exclusion will have over the short, medium and long-term.

The current version of the national Health & Physical Education curriculum does nothing to put all 'Students First', which I understand to be the guiding principle of this review. In fact, by continuing to exclude some students, and marginalising content which is relevant to their needs, the draft HPE curriculum places lesbian, gay, bisexual, transgender and intersex students last.

If the HPE curriculum were to be implemented as it currently stands, it would actively contribute to, and reinforce, the disproportionate rates of mental health

problems, depression and, most tragically, suicide, which continue to affect young LGBTI people.

By failing to include detailed BBV and sexual health education, the HPE curriculum would also leave young people, and gay and bisexual men and trans* people specifically, exposed to unnecessary risk of transmission of HIV and other infections.

And by not ensuring that all students are provided with information that is relevant to their own needs and personal circumstances, the HPE curriculum will undermine the fundamental human right to health of the next generation of young LGBTI people. This right must be respected, and not denied to people merely on the basis of other peoples' attitudes towards their sexual orientation, gender identity or intersex status.

This review is an(other) opportunity to address some of the serious shortcomings of the draft HPE curriculum. Please seize this opportunity and recommend that the curriculum be amended to ensure LGBTI students are included, with content that is relevant and targeted to meet their needs, including around sexual health and BBV education.

The remainder of this submission will look at five key areas of the draft HPE curriculum. They are:

- Terminology
- Student Diversity
- Bullying & Discrimination
- Sexual Health, and
- HIV and other BBVs.

Terminology

One significant problem that has consistently appeared through the initial draft, revised draft and now second revised draft of the Health & Physical Education curriculum is that of terminology. Specifically, the HPE curriculum has either completely excluded terms that are essential for young people to learn, or included terms or definitions that are not appropriate in the circumstances.

The biggest problem in terminology, featured in all three drafts, has been the failure to even include the words lesbian, gay or bisexual. Despite these being the most common forms of identification for people whose sexual orientation is 'not heterosexual', these terms have never appeared in any version of this document.

In fact, the ongoing refusal to name lesbians, gay men and bisexuals – despite the fact that students will have heard these terms regularly amongst their families and friends, in culture and in broader society, and that an increasing number of young people, including students, will be using these terms to describe *themselves* – is almost bizarre in its stubbornness to deny reality.

Even if there may be a reason for sometimes using the umbrella term same-sex attracted, to ensure that people who may be sexually attracted to people of their own sex but who do not use the terms lesbian, gay or bisexual to identify themselves are included, there is absolutely no justification for not naming lesbian, gay and bisexual identities within the HPE curriculum (for example, by using the description “same-sex attracted, including lesbian, gay and bisexual people”). The failure to do so contributes to the marginalisation of lesbian, gay and bisexual young people.

On a related issue, the HPE curriculum as drafted appears to use the incredibly broad, and arguably poorly-defined, term ‘sexuality’ at multiple points in the document when ‘sexual orientation’ would be more appropriate.

For example, the Glossary defines ‘sexuality’ as “[a] central aspect of being human throughout life. Sexuality encompasses sex, gender identities and roles, sexual orientation, pleasure, intimacy and reproduction and is influenced by the interaction of biological, psychological, social, economic, political, cultural, ethical, legal, historical, religious and spiritual factors”. The breadth of this definition makes some of the references to sexuality in the curriculum either too vague to be practicable, or even unintelligible.

The more widely-accepted term ‘sexual orientation’, which the curriculum does not define, and only appears to use once (in the definition of ‘sexuality’, reproduced above), would be more constructive, especially when references are made to differences or diversity in ‘sexuality’. Using the term sexual orientation would also more clearly include different orientations (including lesbian, gay and bisexual) than using the term sexuality alone.

On a positive note, there have been some improvements in references to, and definitions for, diversity in gender identity, including transgender people (which at least is included as part of the Glossary definition of ‘gender diverse’).

There have also been improvements in terms of the recognition of intersex people, who are now at least referenced in the statement on student diversity, and provided with a separate definition in the Glossary (where previously it had been erroneously included within the definition of gender diverse).

Nevertheless, defining a term in the Glossary and then using it once in the main text of the curriculum itself (and even then only as part of an ‘aspirational statement’ at the beginning of the document) is not sufficient to guarantee that the needs of transgender and intersex students are met.

In summary, the HPE curriculum needs to be significantly amended, such that it actually includes the terms lesbian, gay and bisexual, and that it adequately includes information about these sexual orientations, as well as transgender and intersex people, throughout the document.

Student Diversity

As discussed above, the HPE curriculum includes a statement on ‘Student Diversity’ at the beginning of the document, and this includes two paragraphs on ‘Same-sex attracted and gender-diverse students’.

I welcome some of the changes that have been made to this section between the revised draft and the second revised draft. In particular, these paragraphs now make a variety of positive statements (including that “it is crucial to acknowledge and affirm diversity in relation to sexuality and gender” – noting my view, expressed earlier, that the use of ‘sexual orientation’ would be preferable here – while talking about “inclusive... programs” and the needs of “all students”).

Indeed, the last sentence of the section is particularly encouraging where it notes that being inclusive and relevant is “particularly important when teaching about reproduction and sexual health, to ensure that the needs of all students are met, including students who may be same-sex attracted, gender diverse or intersex”.

However, these positive developments continue to be undermined by the preceding statements that the HPE curriculum “is designed to allow schools *flexibility* to meet the learning needs of all young people, particularly in the health focus area of relationships and sexuality” (emphasis added) and that “[a]ll schools communities have a responsibility when implementing the HPE curriculum to ensure that teaching is inclusive and relevant to the *lived experiences* of all students” (emphasis added).

Both of these statements appear to leave the decision whether, and in what way, schools will include LGBTI students and content up to the schools themselves. In the first instance, whether LGBTI students and content are included at all is too important to be left to the ‘flexibility’ of the school itself.

Second, and far more importantly, the reference to ‘lived experiences’ could be argued to leave a loophole for schools to assert that, unless students first identify themselves or disclose their status as LGBTI, they do not exist in the eyes of the school and therefore the school does not have a responsibility to include them or content relevant to their needs.

This approach – apparently leaving it up to students to ‘come out’ before they are entitled to receive vital health information, despite the fact that doing so can, in many Australian jurisdictions, lead to the potential expulsion of that student, let alone other personal consequences for the student with their family or friends – fundamentally undermines the concept of health, and health education, as a universal human right.

And, while this appears to be a somewhat negative and narrow interpretation of these paragraphs, it is a realistic one given that a statement which appeared in the initial consultation draft, which stated that “same-sex attracted and gender diverse students exist in all Australian schools” was abandoned in the revised draft, and, despite arguments put forward for its re-inclusion was not included in the second revised draft.

In my view, whether to include LGBTI students and content should not be an issue of 'flexibility' between different schools. Instead, there should be a minimum level of LGBTI education provided to every student in every school – and, after all, isn't a national minimum standard what the curriculum should be aiming to achieve?

This would be further supported by the re-inclusion of a statement which notes that "lesbian, gay, bisexual, transgender and intersex students exists across all Australian schools, and all schools must provide LGBTI-specific content to each and every student".

Bullying & Discrimination

One area where there has been significant improvement from the initial draft and revised draft to the second revised draft has been an increase in content that attempts to redress anti-LGBTI bullying and discrimination.

In particular, I welcome the commitment in the Glossary definition of 'discrimination' that "[t]he types of discrimination that students *must* learn about include racial, sex and gender discrimination, homophobia and transphobia" (emphasis added).

I also welcome the increased content in year band descriptions that explicitly includes learning about homophobia, in years 7/8 and 9/10.

However, there are still a range of improvements that could be made to ensure that the curriculum adequately informs students about the need to stamp out discrimination and bullying of LGBTI students.

First, it is important to note that 'homophobia' does not necessarily include all forms of discrimination or prejudice against LGBTI people. The inclusion of transphobia in the Glossary is valuable, however, it should also be included in the year band descriptions to ensure that it is not overlooked. Both the Glossary and year band descriptions should also include biphobia and anti-intersex discrimination, which should not automatically be subsumed within a catch-all category of 'homophobia'.

Second, discussion of homophobia, biphobia, transphobia and anti-intersex discrimination should not be left until years 7/8 to be introduced into the HPE curriculum, but should be commenced in years 5/6 alongside education about racism.

This is vital not only because anti-LGBTI bullying and discrimination can occur from a young age (including all-too-common insults like "that's so gay"), but also because some young lesbian, gay and bisexual students are coming out earlier and earlier (and deserve to be protected), while some trans* and intersex youth may have disclosed their status earlier still.

Third, in the year band description for years 9/10, heading “[c]ritique behaviours and contextual factors that influence health and wellbeing of their communities” instead of using the term “*such as...* homophobia” (emphasis added) the curriculum should say “including homophobia, biphobia, transphobia and anti-intersex prejudice” to ensure that schools cannot opt out of providing this content.

Fourth, I would highlight the inconsistency in providing information about homophobia and transphobia to students, which as I have indicated above is a positive development, with the ongoing exclusion of the words lesbian, gay and bisexual from the document in its entirety, and the exclusion of the words transgender and intersex from the year band descriptions (which provide the main content of the curriculum).

It would seem nigh on impossible to appropriately teach students about the negatives of homophobia and transphobia (together with biphobia and anti-intersex discrimination, which should be added) at the same time that lesbian, gay, bisexual, transgender and intersex students are either not explicitly mentioned in the year band descriptions, or not even mentioned at all in the entire curriculum.

Sexual health

One of the key aspects of any Health & Physical Education curriculum must be the provision of comprehensive, inclusive and up-to-date education around sexual health.

Unfortunately, none of the three drafts of the HPE curriculum released to date have provided even a bare minimum of information about the best practices to support sexual health, not just for LGBTI people, but also for cisgender heterosexual students.

While the Glossary does at least provide a definition of ‘sexual health’ (“[a] state of physical, mental and social wellbeing in relation to sexuality. It requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence”), there is either limited or no support to implement this in practice in the year band descriptions.

In the year bands 5/6 and 7/8, which represent key ages for sexual health education, there is some discussion of physical changes surrounding puberty, and even changing feelings and attractions, but there does not appear to be any unit or module where students are taught the ‘nitty-gritty’ of sexual health, including discussion of different sexual practices, sexually transmitted infections (STIs) and the best ways to reduce the risks of STI transmission (including but not limited to condom usage).

I continue to find it extraordinary that the national minimum standard for Health & Physical Education to students does not even refer to STIs or condoms.

One of the arguments that has been mounted in defence of this omission is that this level of detail is not necessary in the curriculum, and that it will be covered as different jurisdictions and school systems implement their own syllabus.

I completely disagree. Given how fundamental sexual health is to the health and wellbeing of young people, surely the national HPE curriculum is the perfect place to guarantee that all students, rights across the country and irrespective of whether they attend government or non-government schools, receive the best possible information.

In addition, the reticence to provide any real detail around sexual health in the curriculum, on the basis that 'specifics' are not required, looks more like evasion when compared with some of the other sections of the curriculum which are, in fact, quite detailed (for example, in the year 5/6 band description it suggests "experimenting with different music genres such as Indian Bhangra music when performing creative dances").

If something as specific as Indian Bhangra music can be named in the HPE document, then there must also be space for detailed discussion of the importance of sexual health, different sexual practices, STIs and condoms.

HIV and other BBVs

My fifth and final concern is related to the fourth, and that is the complete exclusion of HIV, and other BBVs like viral hepatitis, from the curriculum.

As I have written previously, I simply cannot understand that a national Health & Physical Education curriculum, developed and written in the years 2012 and 2013, does not even refer to HIV, hepatitis B and hepatitis C, which together directly affect almost half a million Australians.

It is vital that students learn about these BBVs, and most importantly how to reduce the risks of their transmission (for example, condom usage, hepatitis B vaccination, not sharing injecting equipment and safe tattooing and body art practices). If we do not provide this information, at the age that young people need it most, then we are failing in our duty of care towards the next generation.

The ongoing exclusion of HIV in particular looks odd (or, to be less charitable, short-sighted and ill-conceived). More than 30 years into the HIV epidemic in Australia, and with Melbourne hosting the 20th International AIDS Conference in July 2014, the proposed national minimum standard for Health & Physical Education curriculum does not even bother to mention it.

This is far from the 'best practice' approach that Australia adopted to the HIV epidemic in the 1980s. A best practice approach to the HPE curriculum now would, as a minimum, ensure that all students learn about HIV, hepatitis B and hepatitis C, and the best ways to reduce the risks of transmission.

Conclusion

As I have outlined above, I have serious concerns about the second revised draft Health & Physical Education curriculum, including its continued exclusion of LGBTI students and content relevant to their needs, as well as minimal or non-existent education regarding sexual health and HIV and other BBVs.

As reviewers of the national curriculum, I believe it is your responsibility to remedy these significant shortcomings, and ensure that the final HPE curriculum adopted is one that provides for the best possible health education and outcomes for all students, including lesbian, gay, bisexual, transgender and intersex students.

That is my definition of Students First.

Sincerely,