



HEALTHY, SAFE & EQUAL

SUBMISSION TO THE ROYAL COMMISSION INTO VICTORIA'S MENTAL HEALTH SYSTEM



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HEALTHY, SAFE & EQUAL: SUBMISSION TO THE ROYAL COMMISSION INTO VICTORIA'S MENTAL HEALTH SYSTEM

To the Royal Commission into Victoria's Mental Health System,

We commend the Victorian Government on initiating the Royal Commission into Victoria's Mental Health System and welcome the opportunity to provide a short submission summarising some of the key barriers to improving the mental health of lesbian, gay, bisexual, trans and gender diverse, intersex and queer (LGBTIQ+) people in Victoria.

Equality Australia is a national LGBTIQ+ legal advocacy and campaigning organisation. Our purpose is to advocate for fairer laws and policies to improve the mental health and wellbeing of LGBTIQ+ people in our communities. We work with LGBTIQ+ advocates and organisations to amplify the voices of our communities and achieve positive legal, policy and social change for LGBTIQ+ people and their families in Australia. Equality Australia is an independent, not-for-profit non-government organisation.

This submission does not respond to all of the questions posed. Instead, it responds to the key questions that are most relevant to ensuring the Royal Commission takes into account the higher rates of mental health issues for LGBTIQ+ people, which are often caused by discrimination, mistreatment and social exclusion. In addition, we outline barriers to LGBTIQ+ people feeling safe to seek mental health and social supports that should be urgently removed.

Snapshot: LGBTIQ+ people's mental health in Victoria

LGBTIQ+ people face staggering rates of mental health issues compared to the general population, as a direct result of the discrimination, stigma and mistreatment LGBTIQ+ people face in our communities.

There are a range of research studies that confirm LGBTIQ+ people have a substantially higher risk of poor mental health, self-harm, suicidal ideation and suicide. As a snapshot, these studies confirm that of the research participants who participated, approximately:

- 1 in 2 trans young people had attempted suicide and 4 out of 5 trans young people had engaged in self-harm (Telethon Kids Institute – [Trans Pathways](#) (2017)),
- 3 in 5 intersex people had experienced suicidal ideation, and 1 in 5 intersex people had attempted suicide (Intersex Human Rights Australia – [Intersex: Stories and Statistics from Australia](#) (2016)),
- LGBTI young people aged 16 to 27 are 5 times more likely to attempt suicide, with LGBT young people who had experienced abuse and harassment even more likely to attempt suicide (National LGBTI Health Alliance – [The Statistics at a Glance: The Mental Health of LGBTI people in Australia](#)),
- 7 out of 10 trans women, 6 out of 10 trans men, and 1 in 2 bisexual women, use mental health services (La Trobe University – [A Closer Look at Private Lives 2](#) (2015)), and
- The most common health conditions for LGBT people were depression and anxiety (La Trobe University – [Private Lives 2](#) (2012)).

Questions 2 & 3: What is working well and what can be done better to prevent mental illness, support people to get early treatment and support, and prevent suicide?

We commend the Victorian Government for its extensive work in supporting the mental health and wellbeing of LGBTIQ+ people. Victoria's Gender and Sexuality Commissioner Ro Allen has conducted extensive awareness-raising work and education to address the stigma and discrimination that LGBTIQ+ people face, and to connect LGBTIQ+ people into essential services across the state as part of the [LGBTI rural and regional roadshow](#).

The Victorian Government's Equality Branch has played a leading role in championing equality for LGBTIQ+ communities, including the [development of an inclusive language guide across the Victorian Public Sector](#), the [LGBTI Community Grants Program](#), developing [information for families about children born with intersex variations](#), and the development of an [up-to-date database of LGBTIQ+ specific mental health programs and resources](#).

We also acknowledge existing funding for LGBTIQ+ specific organisations to provide essential mental health supports for the LGBTIQ+ community, including for peer support services and suicide prevention. In particular, we recognise the significant injection of funding for LGBTIQ+ specific mental health organisations from the Victorian Government during the marriage equality postal survey to deal with the spike in demand for mental health support during this period.

However, we consider that further funding is essential to expand the ability of LGBTIQ+ specific mental health support organisations. This should include core, ongoing funding for existing mental health services to continue to provide services. In addition, the Victorian Government should consider additional funding for LGBTIQ+ people to access LGBTIQ+ culturally competent specialist services (e.g. funding to develop and maintain an online database of mental health professionals with specialist expertise in supporting LGBTIQ+ people).

RECOMMENDATION 1

We recommend that the Victorian Government provide further funding for specialist LGBTIQ+ mental health organisations to provide tailored prevention programs, early intervention supports and suicide prevention.

Question 4: What makes it hard for people to experience good mental health and what can be done to improve this?

A 2019 La Trobe University study funded by Lifeline – [Understanding LGBTI+ Lives in Crisis](#) – explored how to provide better crisis counselling to LGBTI+ people. The study found that 71 per cent of LGBTI+ people did not reach out to a crisis support service in a time of need, with the primary barriers to crisis support and mental health service being:

- (a) Anticipation and experiences of discrimination;
- (b) Lack of awareness of mainstream services; and
- (c) Various technological, physical, religious and cultural barriers.

Fears of discrimination and mistreatment

Some LGBTIQ+ people report that they fear being discriminated against or mistreated because of their sexual orientation, gender identity or expression, or sex characteristics. There is a range of reasons for these concerns. These concerns include previous negative experiences with service providers, service providers not having evidence-based and unbiased knowledge, and existing legislative exemptions which allow religious organisations to lawfully discriminate against LGBTQ people.

Subsection 82(2) of the *Equal Opportunity Act 2010* (Vic) provides an exemption from protections from discrimination for:

anything done on the basis of a person's religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity by a religious body that—

- (a) conforms with the doctrines, beliefs or principles of the religion; or
- (b) is reasonably necessary to avoid injury to the religious sensitivities of adherents of the religion.

The term “anything done” is broad and case law has confirmed that this includes the refusal of goods and services. While there is useful guidance in the decision in *Christian Youth Camps Limited v Cobaw Community Health Service Limited* [2014] VSCA 75, the exact scope of this provision remains uncertain.

In addition, section 84 of the *Equal Opportunity Act 2010* (Vic) provides an exemption from discrimination protections for:

discrimination by a person against another person on the basis of that person's religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity if the discrimination is reasonably necessary for the first person to comply with the doctrines, beliefs or principles of their religion.

LGBTIQ+ people experiencing mental health issues are unlikely to be aware of the legal details of the scope of these exemptions, and may delay seeking treatment and support out of fear that they will face further discrimination.

The [Royal Commission into Family Violence](#) recommended that:

Recommendation 169: The Victorian Government, in the context of its commitment to review equal opportunity and birth certificate laws, examine the need to clarify relevant provisions of the *Equal Opportunity Act 2010* (Vic) to remove any capacity for family violence accommodation and service providers to discriminate against lesbian, gay, bisexual, transgender and intersex Victorians.

The Victorian Government considered the recommendation and decided to adopt a non-legislative approach. For example, in 2018 the Victorian Government worked with a number of faith-based family violence services to make a [public pledge](#) committing to provide inclusive and non-discriminatory services for LGBTIQ+ people.

However, only a small handful of faith-based religious organisations signed the pledge, and a large number of other religious organisations – including in health, mental health, housing and education – have not made this commitment. As the legislative exemptions have not been removed, religious service delivery providers can still legally discriminate against LGBTQ clients. This is unacceptable discrimination towards people seeking help and support which should not be lawful in Victoria in 2019.

Permanent statutory exemptions that allow religious organisations to discriminate against LGBTQ people who are seeking support while experiencing mental health issues need to be urgently removed from Victorian laws.

RECOMMENDATION 2

We recommend that the Victorian Government remove outdated religious exemptions from the *Equal Opportunity Act 2010* (Vic) which allow religious organisations or individuals to discriminate against LGBTQ+ people experiencing mental health issues, including in relation to accessing mental health services.

We note that there are broader reforms to the *Equal Opportunity Act 2010* (Vic) which should be considered as part of a comprehensive review, including protections from discrimination on the basis of 'sex characteristics' for intersex people.

Access to LGBTQ+ culturally competent mental health supports

In [Understanding LGBTQ+ Lives in Crisis](#), LGBTQ+ people report difficulties when accessing mainstream mental health support services caused by a lack of knowledge and information about LGBTQ+ people. For example, trans and gender diverse advocates report that they often have to spend a number of the initial sessions with a psychologist or counsellor explaining diverse gender identities and gender affirmation, and that mental health practitioners may attempt to attribute their mental health issues to their gender identity, rather than the actual causes of anxiety, depression or other mental health issues they are experiencing. We recommend that the Royal Commission hear from LGBTQ+ people experiencing mental health issues to better understand the difficulties faced in seeking mental health supports.

Similar concerns were raised about mainstream family violence service providers during the [Royal Commission into Family Violence](#), which resulted in a recommendation that:

Recommendation 167: The Victorian Government require all funded family violence services to achieve Rainbow Tick accreditation. This should be achieved by means of a staged approach, using workforce training and LGBTI equity auditing followed by full accreditation. An evaluation should be conducted to determine whether all family violence services are suitably responsive to and inclusive of LGBTI people.

The [Understanding LGBTQ+ Lives in Crisis](#) study also recommends that mainstream crisis support services, such as Lifeline, engage in LGBTQ+ inclusive practice. This inclusive practice should include ongoing training about the demographic needs of different communities within the LGBTQ+ umbrella, and intersectional needs of particular communities such as people from CALD and faith backgrounds.

The [Rainbow Tick](#) is a framework for training and accreditation that helps organisations demonstrate that they provide safe, inclusive and affirming services for LGBTQ+ people through assessment and quality improvement of 6 standards:

1. Organisational capability,
2. Workforce development,
3. Consumer participation,
4. A welcoming and accessible organisation,
5. Disclosure and documentation, and
6. Culturally safe and acceptable services.

RECOMMENDATION 3

We recommend that the Victorian Government require all funded mental health services to achieve Rainbow Tick accreditation.

Public awareness, community education and information resources

The [Understanding LGBTI+ Lives in Crisis](#) study found that LGBTI+ participants were not aware of the different types of mental health services they could reach out to. The report recommended increased promotional awareness of available mental health supports, including promotion that these services are LGBTI+ inclusive. Public awareness campaigns are crucial to educate the broader public about the impact of discrimination, stigma and mistreatment on the mental health of LGBTIQ+ people.

The Royal Commission into Family Violence recommended that:

Recommendation 168: The Victorian Government provide funding for the following:

- development and maintenance of legal and other resources for lesbian, gay, bisexual, transgender and intersex communities to support the identification and reporting of family violence, along with information about safe, accessible sources of support
- shared community education campaigns via LGBTI and family violence services to encourage LGBTI people who are experiencing family violence to seek help
- provision of training and advice to specialist family violence services
- for those LGBTI victims who cannot remain in their home, assistance with obtaining safe accommodation.

We consider that this recommendation could be usefully adapted for Victoria's mental health sector to address relevant concerns.

RECOMMENDATION 4

We recommend that the Victorian Government provide funding for the following:

- development and maintenance of information resources for LGBTIQ+ people with information about safe, LGBTIQ+ inclusive mental health supports
- shared community education campaigns via LGBTIQ+ and mental health support services to encourage LGBTIQ+ people who are experiencing mental health issues to seek support
- provision of training and advice to mental health professionals and support services, and
- public education campaigns aimed at increasing broad awareness of the mental health impacts of discrimination, stigma and mistreatment on LGBTIQ+ people.

Question 5: What are the drivers behind some communities in Victoria experiencing poorer mental health outcomes and what needs to be done to address this?

The main driver behind LGBTIQ+ communities in Victoria experiencing poorer mental health outcomes is the discrimination, stigma, and mistreatment they face from others. The [National LGBTI Health Alliance](#) confirms that the disproportionately poorer mental health outcomes and higher risk of suicidal behaviours that LGBTI people experience are “directly related to experiences of stigma, prejudice, discrimination and abuse on the basis of being LGBTI”.

The most effective way to improve the mental health and wellbeing of LGBTIQ+ people is to address the root cause – discrimination and prejudice.

Discrimination against LGBTQ students and staff in religious schools

Students at faith-based schools and universities are at risk of being expelled, or being forced to sit through classes where they are taught that they are sick, wrong or broken. The national [Writing Themselves In 3](#) study found that young LGBTQ people with a religious background are more likely than their peers to report self-harm and suicidal ideation, have experienced social exclusion, and attend schools with no policies or supports protecting them from bullying because of their sexual orientation or gender identity.

Section 83 of the *Equal Opportunity Act 2010* (Vic) provides an exemption for:

anything done on the basis of a person's religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity by a person or body [including a religious body, that establishes, directs, controls, administers or is an educational institution that is, or is to be, conducted in accordance with religious doctrines, beliefs or principles]... in the course of establishing, directing, controlling or administering the educational institution that–

- (a) conforms with the doctrines, beliefs or principles of the religion; or
- (b) is reasonably necessary to avoid injury to the religious sensitivities of adherents of the religion.

When taken with section 38 of the *Equal Opportunity Act 2010* (Vic), this exemption gives religious educational authorities the ability to discriminate:

- by refusing to admit a LGBTQ person as a student (or the terms on which a LGBTQ person is admitted as a student);
- by denying or limiting access to any benefit provided by the school to LGBTQ students;
- by expelling LGBTQ students; or
- by subjecting LGBTQ students to any other detriment.

LGBTQ students should be able to learn in educational environments where they are supported and accepted for who they are. Children in schools should be focusing on classes, homework and building friendships, not living in fear of mistreatment because of who they or their families are.

No child should have to live in fear of being mistreated or cast out of an educational institution where they have spent years developing close personal friendships that promote positive mental health and wellbeing.

Section 82 of the *Equal Opportunities Act 2010* (Vic) (outlined above) also allows religious educational institutions to lawfully discriminate against teachers and staff in employment. LGBTQ teachers should be able to do their job without having to hide

who they are out of fear that they will lose their jobs, including fears that they will no longer be around to provide support for LGBTQ students at the school. Allowing discrimination in employment sends a clear message to LGBTQ students that LGBTQ people are not welcome or accepted at school, and denies students the opportunity to be taught by exceptional and dedicated LGBTQ teachers. Similarly, teachers who are heterosexual but affirming of an LGBTQ student's identity can also be subjected to the same treatment as LGBTQ staff, without protections from discrimination.

RECOMMENDATION 6

We recommend that the Victorian Government remove outdated religious exemptions from the *Equal Opportunity Act 2010* (Vic) which allow religious educational institutions to discriminate against LGBTQ students, teachers or staff.

Ending anti-LGBTQ religious conversion practices

We commend the Victorian Government for committing to address anti-LGBTQ religious conversion practices by implementing the recommendations of the La Trobe University and Human Rights Law Centre's 2019 *Preventing Harm, Promoting Justice* report. The report found that anti-LGBTQ religious conversion practices cause a range of harms, including "self-hatred, shame, loneliness, thoughts of suicide, problems with being touched or loved, sexual dysfunction, causing harm to those they love including partners and spouses, grief, loss of faith, loss of community, depression, ongoing mental health problems and economic disadvantage".

RECOMMENDATION 7

We recommend that the Victorian Government continue to implement its commitment to address anti-LGBTQ religious conversion practices by implementing the recommendations of the *Preventing Harm, Promoting Justice* report.

Supporting the mental health of trans and gender diverse people

We commend the Victorian Government for tabling the Births, Deaths and Marriages Registration Amendment Bill 2019 (Vic) in June 2019. Without access to accurate identity documents, trans and gender diverse people are more likely to face discrimination in employment, accessing services or education. This Bill is a very positive step towards removing discrimination against trans and gender diverse people in Victoria, and improving health and wellbeing.

In 2018, the Victorian Government also announced the investment of \$3.4 million to expand Victoria's health system's capacity to support and better meet the needs of trans and gender diverse Victorians. This is the largest investment in the health needs of trans and gender diverse Victorians in the history of the state, including a range of measures to improve the mental health of trans and gender diverse people in Victoria.

RECOMMENDATION 8

We recommend that the Victorian Government continue to support the passage of the Births, Deaths and Marriages Registration Amendment Bill 2019 (Vic) and the [Trans and Gender Diverse Health Initiative](#).

Protections from harmful practices and access to tailored supports for intersex people

We commend the Victorian Government on committing to better understand and address the health needs of intersex people in Victoria. In 2018, the Victorian Government released a series of [new resources](#), including an information and resource paper and information for families about sex characteristic variations in babies and children.

[Multiple UN agencies](#) including the World Health Organisation and Office of the United Nations High Commissioner for Human Rights have highlighted the impact of deferrable medical interventions on intersex people without full and informed consent, which have irreversible, lifelong physical and mental health consequences. A 2013 Senate Report on the [Involuntary or coerced sterilisation of intersex people in Australia](#) confirmed that governments have a duty to combat these harmful stereotypes and discrimination. The social stigma and discrimination experienced by intersex people takes a significant toll on mental health outcomes and poses a barrier to accessing equal opportunities.

RECOMMENDATION 9

We recommend that the Victorian Government continue to work with intersex advocates to introduce measures to protect intersex people from harmful practices and discrimination, including prohibitions on deferrable medical interventions without personal consent, public awareness campaigns to reduce stigma, access to tailored peer support, and a range of other measures as developed in consultation with intersex people.

We have provided this brief submission to highlight some of the key barriers to improving the mental health outcomes for LGBTIQ+ people.

We urge the Royal Commission to make specific recommendations to address the staggering rates of mental health issues LGBTIQ+ people experience – particularly recommendations aimed at reducing discrimination, stigma and mistreatment as the main drivers for poorer mental health outcomes for LGBTIQ+ Victorians.

Please do not hesitate to contact Equality Australia at info@equalityaustralia.org.au if you have any questions in relation to this submission.

Yours sincerely,



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