

# AUSTRALIAN **LGBTIQA+ POLICY GUIDE** 2020

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# Contents

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Preface	ii
Introduction	iii
1/ Protecting Human Rights through legislation and constitutional statements	1
2/ Ensuring government responsibility for LGBTIQ+ Australians	1
3/ Protecting marriage equality	2
4/ Protecting LGBTIQ+ Australians from discrimination	3
5/ Ensuring equality in families, surrogacy and adoption	6
6/ LGBTIQ+ partner and family violence	9
7/ Introducing a human rights approach to LGBTIQ+ immigration, refugees and asylum seekers	12
8/ Advocating for LGBTIQ+ people in foreign policy and development	15
9/ Delivering equitable education outcomes for LGBTIQ+ Australians	16
10/ Ensuring equality for bi, trans, gender diverse, intersex, ace and aro Australians	18
11/ Ensuring the health and wellbeing of LGBTIQ+ Australians	20
12/ Ensuring the human rights and full inclusion of intersex Australians	26
13/ Ensuring the bodily integrity of all Australians	27
14/ Ensuring the wellbeing of older LGBTIQ+ Australians	29
15/ Supporting equality for LGBTIQ+ Australians with a disability	30
16/ Supporting LGBTIQ+ Aboriginal and Torres Strait Islander Communities	32
17/ LGBTIQ+ Australians in the sex industry	34
18/ Promoting LGBTIQ+ inclusion in local government and community, sport and the arts	36
19/ Empowering LGBTIQ+ Australians in Workplace and Business	37
20/ Creating opportunities for LGBTIQ+ Australians in rural and regional communities	38
21/ Protecting Australians from the LGBTQA+ conversion movement	40
22/ Creating an inclusive culture in media and communications	43
23/ Improving outcomes for LGBTIQ+ Australians in justice, police and corrections systems	44
24/ Honouring the dignity, successes, historical contributions and experience of LGBTIQ+ Australians	46
25/ Ensuring fairness and equality for Australian women	46

## Acknowledgement of Country

*We acknowledge the traditional owners of the lands on which we work and meet and pay our respects to their elders past, present and emerging.*

*This guide was developed on the land of the Bunurong and Wurundjeri peoples of the Kulin Nation.*

*We acknowledge that this land has always been under their custodianship and that sovereignty was never ceded.*

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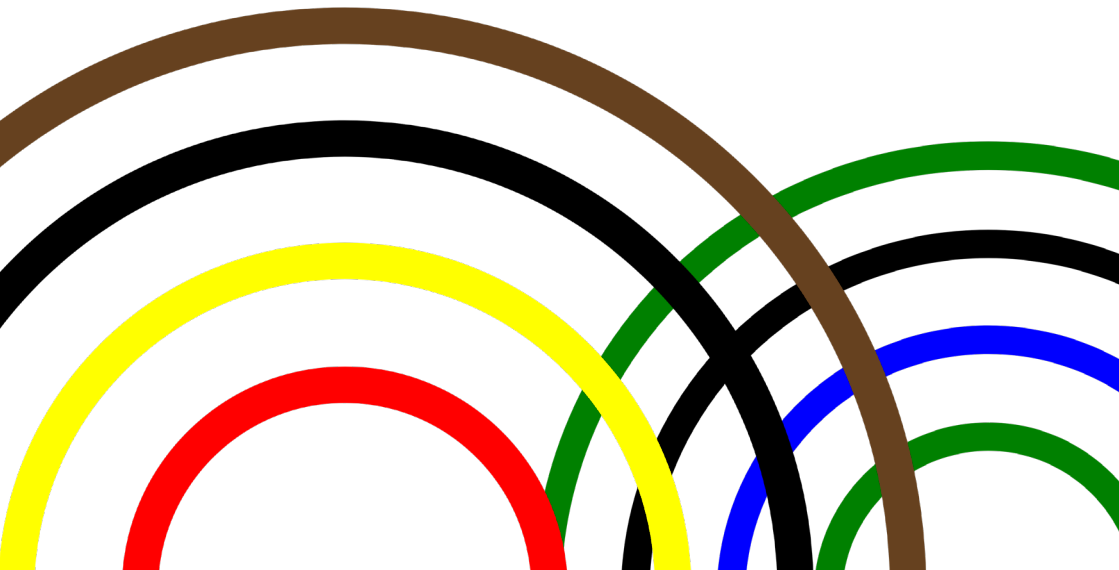
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# Preface

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From 2014 to 2016, the policy team of the Australian Equality Party (AEP) consulted with several organisations, experts, peak bodies and global political parties to assemble a policy roadmap to LGBTIQ+ inclusion.

This roadmap became Australia's most extensive LGBTIQ+ political policy document, covering themes as diverse as parenting, LGBTQA+ conversion practices and ideology, and LGBTIQ+ asylum seekers.

Although the AEP de-registered in 2017, the party's leaders opted to share this extensive policy strategy with all Australian political parties and like-minded organisations so that the knowledge and recommendations contained in the strategy would inform the development of stronger LGBTIQ+ platforms in each party.

The Equality Project wishes to thank the experts and organisational representatives who contributed to this publication, especially Jason Tuazon-McCheyne, Adrian Tuazon-McCheyne, Jacqui Tomlins, Corey Irlam, Australian Federation of Disability Organisations (AFDO), National LGBTI Health Alliance, Equal Voices, Brave Network, Rodney Croome, Rochelle Johnson, Nicole Conner, Vixen Collective, NICHE, Daniel Witthaus, Timothy Jones, Asher Hirsch, Heath Paynter, Ruby Mountford, and Sally Goldner.

All content is open for use by other bodies, organisations and political parties.

This guide is subject to continuous improvement. Please contact the Equality Project if you would like to make suggestions or provide advice about its content.

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# Introduction

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The Equality Project has developed this policy guide to ensure that lesbian, gay, bi+, trans, gender diverse, non-binary, intersex, queer, asexual and aromantic (ace and aro) people and their families experience genuine inclusion and the realisation of their human rights in Australia.

**The Australian LGBTIQ+ Policy Guide is a high-level overview of the most prominent needs experienced broadly throughout Australian LGBTIQ+ communities.**

The policy areas outlined in the guide have been identified by the Equality Project as key domains for progressive policy supporting LGBTIQ+ inclusion and human rights in Australia.

Significant effort has been made to ensure collaborative, participatory approaches were used in developing the Guide. While every effort has been made to seek appropriate representation from various segments of the LGBTIQ+ community and a range of subject matter experts, the Equality Project acknowledges there are competing demands for the time and resources of community members, especially from less represented sections within that community, meaning it has not always been possible to obtain this advice.

We also note that policy development is continuous and welcome feedback from policy professionals, political parties and community organisations.

This Guide contains information relevant to:

- **Local Government**
- **State and Territory Governments**
- **Federal Government**
- **Government departments and Commissions**
- **Political Parties**
- **LGBTIQ+ Advocacy organisations**
- **Businesses and Non-profits**
- **Policy professionals**
- **Media**
- **Academics and researchers**

The policy statements in this guide are anchored in the following principles:

## FAIRNESS

The conviction that all Australians have the right to live in a just and transparent society while being protected from the abuse of power in all spheres.

## HUMAN RIGHTS

The fundamental rights that recognise and respect the intrinsic value, self-determination, and dignity of all persons.

These include freedom of belief, freedom from need and want, freedom from discrimination, freedom of association, freedom to found a family, and the right to bodily autonomy.

## EQUALITY

The ability of all Australians to choose and pursue the same opportunities as others without experiencing significantly more barriers than any other person.

## INTERSECTIONALITY

An acknowledgement that people are inherently multi-faceted, both in terms of their status(es) within LGBTIQ+ communities and a wide range of other important attributes, and that human rights should apply to all parts of a person.

*Yogyakarta Principles Plus 10: Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics, to Complement*

*the Yogyakarta Principles* recognises “that the needs, characteristics and human rights situations of persons and populations of diverse sexual orientations, gender identities, gender expressions and sex characteristics are distinct from each other”, and notes “that sexual orientation, gender identity, gender expression and sex characteristics are each distinct and intersectional grounds of discrimination, and that they may be, and commonly are, compounded by discrimination on other grounds including race, ethnicity, indigeneity, sex, gender, language, religion, belief, political or other opinion, nationality, national or social origin, economic and social situation, birth, age, disability, health (including HIV status), migration, marital or family status, being a human rights defender or other status” (2017, <http://www.yogyakartaprinciples.org/principles-en/yp10>, Preamble).

## SELF-ADVOCACY

Policy that is developed by and with the people with lived experience of the phenomena associated with that policy will be more likely to adequately define those phenomena, engage complexity, and propose effective solutions than policy that is developed mostly by actors and agents who speak and work on behalf of people with lived experience.



## **1/ Protecting Human Rights through legislation and constitutional statements**

- a. The establishment of a Constitutional Human Rights Charter to protect the inalienable and fundamental set of rights inherent to every person, regardless of sex, gender, gender identity, age, sexual orientation, variations of sex characteristics, ethnicity, political opinion, social group, disability, nationality or religious affiliation. The Charter will be modelled on the Universal Declaration of Human Rights and take inspiration from human rights bills, charters and constitutional statements in other jurisdictions.
- b. Human Rights legislation and constitutional charters must be interpreted and implemented according to the 2006 Yogyakarta Principles (the application of human rights law in relation to Sexual Orientation and Gender Identity) and the Yogyakarta Principles Plus 10 (which adds gender expression and sex characteristics).

## **2/ Ensuring government responsibility for LGBTIQ+ Australians**

- a. Government to be responsible for the protection of all Australians from human rights violations, including LGBTIQ+ individuals and families.
- b. Responsibility for ensuring equitable inclusion of LGBTIQ+ people to be formally incorporated into each appropriate ministerial portfolio. This would be co-ordinated by a central Minister for Equality and supported by a dedicated office for equality within a central government department.
- c. Establishment of LGBTIQ+ representative committees by each government agency comprised of a varied selection of representatives from national, state or territory, and local LGBTIQ+ advisory bodies to oversee inclusion of LGBTIQ+ issues across all legislative processes. Government agencies should consult with these committees and relevant representative organisations in developing policies and programs that directly affect LGBTIQ+ Australians.
- d. Funding for the robust collection and dissemination of LGBTIQ+ statistics through national statistical organisations. This includes adding questions about sexual orientation, gender identity and intersex status to the 2021 Census conducted by the Australian Bureau of Statistics. This is needed to ensure that decisions and services



pertaining to LGBTIQ+ Australians, particularly trans and intersex Australians, are substantiated by data.

- e. Terminology used in legislation referring to relationships, gender and gender identity, sexual orientation and variations of sex characteristics to be gender neutral and inclusive, except where the use of differentiated terminology is required to further the rights of a particular group.
- f. Elected representatives to lead by example in inclusive practices.

### **3/ Protecting marriage equality**

Following an unnecessary and damaging Australian Marriage Law Postal Survey, Commonwealth Parliament finally passed legislation allowing couples to marry irrespective of sexual orientation, gender identity or intersex variations in December 2017.

However, the legislation that was passed – the Marriage Amendment (Definition and Religious Freedoms) Act 2017 – did not mean all marriage-related discrimination has ceased. In the eighteen months following this, state and territory governments progressively passed legislation rectifying discrimination in marriage against trans and gender diverse people.

The 2017 reforms have allowed some celebrants who are not ministers of religion to register as religious marriage celebrants and are consequently able to discriminate against LGBTIQ+ couples on the basis of personal beliefs and prejudices. This ability to reject couples should be restricted to ministers of religion (including ministers of unrecognised religions).

The inclusion of religious exceptions within the Marriage Act itself is also unnecessary and implies that discrimination against LGBTIQ+ marriages should be expected and accepted. No organisation, body, government or business should be permitted to refuse services



to married couples on the grounds that they do not recognise the legitimacy of those marriages.

As public and political discourse about so-called religious freedoms and the rights of trans and gender diverse Australians continues, Australian governments and political parties must ensure full marriage equality is maintained in a way that befits Australia's identity as a modern, pluralist democracy – free of any discriminatory exemptions or exceptions.

## **4/ Protecting LGBTIQ+ Australians from discrimination**

- a. Renaming of the Sex Discrimination Act to more appropriately encompass those protected by it, including same-sex attracted, trans, gender diverse and intersex people. This could form part of a larger project, including:
  - i. Consolidating all Commonwealth anti-discrimination laws into a single Human Rights and Anti-Discrimination Act.
  - ii. Introduction of a Gender and Sexuality Commissioner at the Australian Human Rights Commission, similar to the role of the Victorian Gender and Sexuality Commissioner.
  - iii. Increasing funding for AHRC, including opening offices around Australia.
- b. Updating the terminology used in the Sex Discrimination Act, from intersex status to sex characteristics, as advocated for by intersex organisations and advocates in the March 2017 Darlington Statement. This should use the definition of sex characteristics found in the Yogyakarta Principles plus 10: 'each person's physical features relating to sex, including genitalia and other sexual and reproductive anatomy, chromosomes, hormones, and secondary physical features emerging from puberty'.
- c. Strengthening of Commonwealth anti-discrimination legislation in line with Tasmania's anti-discrimination and gender recognition legislation. This would include:
  - i. The removal of automatic exemptions and exceptions for unlawful discrimination from

Commonwealth and State anti-discrimination and equal opportunity legislation for all organisations, including religious organisations, on the grounds of sexual orientation, gender identity, gender expression, and sex characteristics.

- ii. In the interim, in addition to Human Rights Commission investigations, the LGBTIQ+ community would be further protected by the formation of a public body to review, process and regulate any requests for anti-discrimination exemptions. All organisations requesting an exemption must clearly detail the rationale behind their requests both within their business model and in respect to the ethos and culture of their organisation.
  - iii. Banning of offensive language and conduct towards people based on their gender identity, gender expression, sexual orientation, or sex characteristics.
  - iv. Full equality for trans and gender diverse people through the removal of gender from birth certificates and the right to self-identification in documentation for people under the age of 18. (See i below.)
- d. Initiation of an investigation, led by the Productivity Commission or a similar body, in conjunction with LGBTIQ+ researchers and experts, into the social, environmental and economic costs of discrimination against LGBTIQ+ Australians, particularly the effects of discrimination towards Australia's bi+, trans, gender diverse, non-binary, intersex, ace and aro populations.
- e. Government and private sector adoption and implementation of non-binary inclusive language practices.
- f. Equal opportunity and anti-discrimination legislation across Australia ensures that self-identification is the primary protected method for gender identification in community sport across Australia, although elite sports is notably lagging. Despite these protections, a government-led review is required to assess the prevalence and effects of gender-based divisions in sports including elite sports, particularly the effects of these divisions on transgender, gender diverse and intersex people.





- g. All people should be permitted to be legally recognised in the gender they feel most comfortable, including, at a minimum, female, male and non-binary. Legal classification of intersex children as male or female should be contingent upon the provision that they may later provide informed consent to change their birth certificate and other documentation such as passports.
- h. Vilification against LGBTIQ+ people should be treated just as seriously as racial vilification, given the outcomes on vulnerable communities can be similar. Commonwealth, state and territory governments should introduce prohibitions against anti-LGBTIQ+ vilification where they do not already exist.
- i. Documentation: Gender centric terms and options in formal documentation exclude, isolate, and humiliate trans persons.
  - i. Wherever possible, documentation should not use gender as a marker.
  - ii. In lieu of (i) above, change of gender on birth certificates should only require a signed form.
  - iii. Trans people should not require a letter from a doctor or other health professional to complete any form of documentation.
  - iv. Formal declaration of gender identity must depend solely on how the person identifies, not on whether they have had surgery.
  - v. Trans people should not be outed by the presence of a gender marker, including past markers, on birth certificates and passports. Such instances constitute a breach of the many standards of privacy and confidentiality that exist in the private and public sectors.
  - vi. Gender on passports must continue to be based on affirmed identity. Full affirmation



of identified gender on a person's passport necessitates the development of an appropriate additional category or categories of gender, particularly for non-binary persons. Australia must advocate for all of its citizens who encounter difficulty when interacting with customs in other jurisdictions.

- j. LGBTIQ+ Australians understand what it is like to experience discrimination on the basis of who they are, and support legal protections against discrimination for other groups, including people of faith and people without faith. However, discrimination laws that cover different attributes, like religion, must not include positive rights to discriminate against others, including LGBTIQ+ people, or in any way undermine protections against discrimination on the basis of sexual orientation, gender identity, gender expression, or sex characteristics.

## **5/ Ensuring equality in families, surrogacy and adoption**

Adoption and surrogacy require a human rights-based regulatory approach that is fair and consultative. Appropriate, contextualised, rigorous research on the experience of children in same-sex parented families should be incorporated into judicial proceedings, legislation and educational materials.

### **a. Adoption**

- i. Universal access to stranger and known child domestic adoption for single LGBTIQ+ people and LGBTIQ+ couples. All adoption agencies should provide services to LGBTIQ+ people. This will necessitate the removal of any exceptions to anti-discrimination legislation.
- ii. Equal access to international adoption for single LGBTIQ+ people and LGBTIQ+ couples. Where international adoption is available to heterosexual married couples but limited for LGBTIQ+ couples or single people by the legislative framework of the country of origin, advocacy for LGBTIQ+ parenting rights should be supported.

## b. Surrogacy

- i. Surrogacy (altruistic and compensated) should be available to all Australian residents with laws harmonised across all states and territories regardless of gender, gender identity, sexual orientation or sex characteristics. Harmonisation must include the repeal of any legislation that criminalises a surrogacy arrangement that would otherwise be considered fully legal in another Australian state or territory. Legislation must be supported by adequate research.
- ii. A national regulatory system should be developed to ensure and monitor the full assessment of capacity, motivation and intersecting factors present in all parties involved in legal surrogacy arrangements.
- iii. Legislation must focus on appropriate regulation of surrogacy processes while ensuring the centrality of the fundamental human rights of children and providing necessary protections for both surrogates and intended parent(s). This includes the timely transfer of parentage from surrogate to intended parent(s).
- iv. All children born via surrogacy arrangements (both domestically and overseas) should be provided with recognition of legal parentage in line with the Family Law Council's Status of Children's Act recommendation. For the purposes of surrogacy this would include:
  1. That any order is subject to the best interests of the child.
  2. Provision to ensure the rights of the child are protected in the case that either parties change their minds, such that the child will be adequately cared for.
  3. Evidence of the surrogate's full and prior informed consent.
  4. Evidence of the surrogacy agreement, including any sums paid.
  5. Considerations given to whether the intended parent(s) have acted in good faith in relation to the surrogate. Evidence that the intended parent(s) will ensure the child has access to information concerning the child's genetic, gestational and cultural origins.
  6. Provision is made that where a surrogacy arrangement involves multiple births, orders must be made in relation to all children born.



- v. The criminalisation of advertisements to attract altruistic surrogates or egg donors should be reviewed to assist in making altruistic surrogacy arrangements transparent and accessible.
- vi. Training and education about surrogacy should be provided as a priority to all medical, social, health and other government and community services to assist in reducing stigma and encouraging openness.

### c. Families

- i. Inclusive paid parental leave for all parents (including involved donor parents).
- ii. Equal rights and protections for children with LGBTIQA+ parents.
- iii. Equal access to assisted reproductive treatments, inclusive of IVF, for Australians of all sexual orientations, gender identities and marital statuses. Assisted Reproductive Technology laws across the states and territories, and the National Health and Medical Research Council Ethical Guidelines for the Clinical Practice of ART, should be amended to ensure LGBTIQA+ people have non-discriminatory access to these services.
- iv. A review of legislation across states and territories relating to the interaction of sperm donation, single people, and family arrangements that involve more than two parents to ensure fair, equitable and evidence-based regulations for families who use sperm from either known or unknown donors.
- v. A review of the legislation in force pertaining to legal guardians of minors, ensuring that same-sex couples are legally represented as equal guardians of their child.



## 6/ LGBTIQ+ partner and family violence

Mainstream services have often been unable to meet the needs of victim/survivors of LGBTIQ+ partner or family violence and abuse toward children and elders (including physical and sexual violence; financial abuse; verbal abuse; social abuse, and psychological, emotional, and spiritual abuse) due to a lack of expertise, or an unwillingness or inability of organisations and services to meet the needs of the LGBTIQ+ community.

As many as one in three LGBTIQ+ people experience intimate partner and/or family violence from a partner, ex-partner, or family member, inclusive of family of choice (Pitts, Smith, Mitchell & Patel, 2006; Leonard, Mitchell, Patel & Fox, 2008). No organisation can claim to be inclusive if it only serves some of the LGBTIQ+ community.

### a. Inclusive policy

- i. The mandatory inclusion of evidence-based content relating to sexual orientation, gender identity and variations of sex characteristics in the policies, training, and practice of publicly-funded agencies that provide services to the victim/survivors of partner or family violence.
- ii. Support for the development of an LGBTIQ+ affirmative action plan within the National Family Violence Framework.

### b. LGBTIQ+ sensitive mainstream service delivery

- i. The provision of government-funded resources and personnel to ensure that services can meet the needs of their LGBTIQ+ clients in a timely and appropriate manner.
- ii. In consultation with LGBTIQ+ organisations, the development and implementation of LGBTIQ+ sensitivity training and the development of information, resources and appropriate referrals within organisations that currently provide services to people affected by partner and family violence.



iii. Support for the development of LGBTIQ+ specific services for people affected by LGBTIQ+ partner or family violence where appropriate, including within established LGBTIQ+ organisations, such as:

1. Housing and emergency accommodation.
2. Free and low-cost counselling, phone counselling, legal advice and other similar supports, particularly for people living in rural and regional areas.

iv. Ensure that no service delivery organisation is able to deny services to victims of LGBTIQ+ partner and family violence purely on the basis of gender, sexual orientation, gender diversity or sex characteristics. This includes removing the broad exemptions from anti-discrimination legislation for religious bodies that deliver critical services.

v. Support the introduction of non-heteronormative partner and family violence prevention campaigns.

c. Improved reporting

i. The reporting mechanisms and practices of police and other relevant agencies must be enhanced to better capture data relating to LGBTIQ+ partner or family violence. Police taking the primary role, working in partnership with government and LGBTIQ+ community organisations where appropriate.

ii. The development of communication strategies in all states and territories to promote awareness of Police GLLOs and to encourage increased reporting of LGBTIQ+ partner or family violence.

iii. Increasing the presence, visibility and accessibility of GLLOs outside formal police settings, including at LGBTIQ+ organisational and community events.

iv. The development of diversity and LGBTIQ+ sensitivity training for all police personnel that includes working with the victims of LGBTIQ+ partner or family violence.

v. The diversification of mechanisms for reporting LGBTIQ+ partner abuse including anonymous online reporting for incident data collection.

- vi. The development of police information and referral protocols for victims of LGBTIQ+ partner or family violence in partnership with LGBTIQ+ community organisations and accredited mainstream services.
- vii. Improved and ongoing information data collection regarding the incidence of different types of LGBTIQ+ partner and family violence including non- physical forms of abuse and the success rates of intervention strategies.
- viii. Government funded monitoring and review of LGBTIQ+ partner and family violence cases to determine the best practices at each stage.

d. Research

- i. The development of government-funded research investigating cases of LGBTIQ+ partner abuse or violence that have gone through courts. The project would gather information on complainants' experiences of taking cases through the criminal justice system with a view to improving the quality of services provided.
- ii. The monitoring and evaluation of data collection to determine whether or not they are leading to improved reporting of, and are effective in reducing, LGBTIQ+ partner and family violence.
- iii. Increased research of domestic and family violence affecting trans and gender diverse people, which currently has a lower evidence base than LGB violence.



## **7/ Introducing a human rights approach to LGBTIQ+ immigration, refugees and asylum seekers**

- a. Consistent and equitable partner recognition for visa and migration purposes.
- b. Refugees and asylum seekers:

People can currently obtain asylum seeker status and a visa if experiencing discrimination, persecution or the fear of persecution on the grounds of sexual orientation, gender identity or sex characteristics. However, the burden of proof currently falls on the asylum seeker. According to the Organisation for Refugee, Asylum and Migration's (ORAM) 2012 report, it is estimated that there are 175 million LGBTIQ+ persons living in persecutory environments. Of these, 5000 are able to lodge asylum claims each year and only 2500 of these are successful.

It is Australian policy that a person be sent to their country of origin if they can change their behaviour, expression or other attributes to prevent exposure to persecution, for example, if the person has been an overtly visible supporter of LGBTIQ+ rights in their home country. However, Kaleidoscope Australia's 2015 report established that being able to practice discretely is not acceptable grounds for denying refugee status. The person may, however, be required to prove that they were out to a degree that would reasonably be seen to attract persecution. Such an unreasonable requirement may result in gay, lesbian, bi+, trans, gender diverse, non-binary and queer asylum seekers having to prove that they were 'out' but not 'too out' prior to their experience of persecution.

There are several factors that can complicate this process including the applicant's own self-understanding, translators who may not understand LGBTIQ+ language or who may themselves hold discriminatory views, perceived threat due to SOGII status, lack of documentary evidence or knowledge of LGBTIQ+ groups and the cultural sensitivity of border officers. Incorrect status determinations are potentially deadly.

Both mandatory and indefinite detention breach Human Rights laws and safeguards, and result in depression, self-harm, suicide attempts, sexual assaults and abuse.

- i. Australia's human rights-based response to SOGII claims must be supported by adequate auditing.
- ii. Processing or settlement of asylum seekers must not occur in countries in which LGBTIQ+ discriminatory laws exist. As SOGII claims often do not arise on the primary application due to fears of persecution, offshore processing in countries such as Papua New Guinea may lead to refoulement.
- iii. Refugee status should be available for LGBTIQ+ people experiencing or fearing persecution in their country of origin on SOGII grounds, in accordance with UNHCR principles. This persecution may occur regardless of the actions of the state where stigma, discrimination and abuse may be systemically part of the social environment. Further actions by rogue state officers such as police still constitute state abuse even if they contravene the laws of that country.
- iv. Assessment of asylum seekers must use global evidence-based practices that respect the person's dignity and human rights. Interview procedures must facilitate asylum seekers in telling their own stories in a non-confrontational way by using open questions.
- v. Medical testing, even when voluntary, cannot be used to gain information about LGBTIQ+ identity as it is both a violation of the right to privacy and dignity under the UN charter and not effective. Further documentary evidence of sexual acts is never to be asked for, or accepted, as evidence.
- vi. The claims process must incorporate an approach to disclosure that recognises: (a) the progressive nature of disclosure due to fear and stigma surrounding an LGBTIQ+ asylum seeker's willingness to address sexuality, gender identity or expression, or sex characteristics; (b) that persons seeking asylum are often coming to terms with their SOGII status thus may not consider themselves to be LGBTIQ+ due to cultural framing instead referring to themselves by another term eg. 'hijra' which means third gender in many South Asian countries and especially in India; (c) the possible presence of a discriminatory translator; (d) issues of safety presented by the LGBTIQ+ asylum seeker's colocation with other asylum seekers who may hold discriminatory views; (e) the possibility that a person's understanding of sex characteristics, sexuality, sexual orientation and gender identity or expression may differ according to culture or context.

The Fast Track process is an inappropriate mechanism to assess refugee claims made by LGBTIQ+ people seeking asylum, and/or about anti-LGBTIQ+ persecution, and the potentially complex issues these claims raise. It should be discontinued.

- vii. Resettlement of a person who is LGBTIQ+ must not occur in a country that has laws that actively discriminate against LGBTIQ+ people.
  - viii. If LGBTIQ+ people are approved for settlement in Australia, resources must be provided for counselling, social support and peer networks.
  - ix. Strongly support research and the collection and analysis of data relating to the experiences and pathways of LGBTIQ+ people, including (a) discrimination in specific countries of origin; (b) experiences of LGBTIQ+ asylum seekers in the community; (c) sexual health of LGBTIQ+ asylum seekers and refugees; and (d) harm and experiences in detention.
  - x. Strongly support the implementation of an audit model, similar to that currently operating in the UK, whereby an ombudsman and legal framework would exist for the recording of decisions made by immigration officials to create a precedent-based system to allow for consistent and evidence- based assessment of the claims of LGBTIQ+ asylum seekers.
  - xi. Provision and access to sexual and reproductive health resources to all asylum seekers.
  - xii. Specialist training and staff to address the needs of the LGBTIQ+ asylum seekers. More specifically training for immigration officers who have a direct impact on determining an LGBTIQ+ asylum seeker's claim.
- c. Ensure the current system of the AAT is not compromised by political and biased appointments.
  - d. Oppose the raising of the risk threshold for complementary protection.
  - e. Refugee status should be available for people living with HIV (PLHIV) who experience persecution and denial of healthcare needs based on their status, in accordance with UNHCR principles.

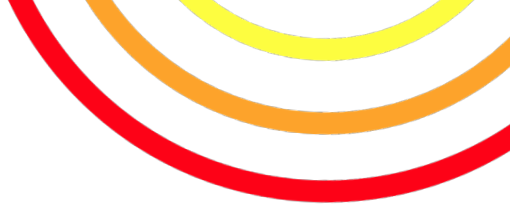
- f. Review of current healthcare service and treatment access for migrants living with HIV.
- g. Support for LGBTIQ+ organisations and services to provide accessible services to migrant communities, including greater ability to provide education and information in languages other than English.
- h. Provide increased financial support for all refugees and people seeking asylum throughout the process to ensure they are not living in poverty.

## **8/ Advocating for LGBTIQ+ people in foreign policy and development**

- a. Australia will vocally oppose all global LGBTIQ+ discrimination and unapologetically advocate for the rights of LGBTIQ+ people in countries that legislate for discrimination towards, and capital punishment of, LGBTIQ+ persons.
- b. Advocacy for development of LGBTIQ+ inclusive policy and practice in all interactions with other nations, including neighbouring countries and trade and development partners.

The over-arching guideline for practice is to be guided by the wishes of people in each country, with Australia to develop partnerships with LGBTIQ+ organisations in country wherever possible.

- c. Human rights of LGBTIQ+ persons to be explicitly addressed in foreign policy. This should include consideration of appointment of an Ambassador for LGBTIQ+ Human Rights, alongside the existing Ambassador for Women and Girls.
- d. The development of a detailed LGBTIQ+ engagement framework to support (a) international development policy and (b) the operation of all government-funded development bodies in contexts in which the rights of LGBTIQ+ people are at risk.
- e. Australia must actively advocate for transparent, regulated and equitable adoption and surrogacy-practices internationally.



## 9/ Delivering equitable education outcomes for LGBTIQ+ Australians

It is imperative that wellbeing, safety and educational outcomes are prioritised over other interests in all aspects of Australia's education system.

- a. The national education and curriculum strategy must include age-appropriate and LGBTIQ+ inclusive content pertaining to diverse genders, bodies and sexualities, to be taught in all schools.
- b. Introduce respectful relationships education into the national education and curriculum strategy to support students to learn how to build healthy relationships and prevent family violence.
- c. Training and materials for educators to include LGBTIQ+ awareness, where appropriate, across a broad range of learning contexts, curriculum areas, and extra-curricular activities.
- d. Removal of exemptions that allow education providers to practice LGBTIQ+ discrimination in employment of staff, adoption and contextualization of curriculum, or enrolment and treatment of students.
- e. Assure safety from discrimination for all LGBTIQ+ staff and students. Current exemptions afforded to religious educational institutions that allow discrimination against LGBTIQ+ staff and students are incompatible with the needs and rights of LGBTIQ+ students. The best practice position, protecting LGBTIQ+ people against discrimination while ensuring genuine religious freedom, is that which has been adopted by Tasmania and the Australian Capital Territory, allowing religious schools to discriminate on the protected attribute of religious belief in the employment of staff and admission of students, but not on the basis of other attributes, such as sexual orientation, gender identity or sex characteristics. This approach should be adopted by other jurisdictions, including the Commonwealth.



- f. It is vital that programs and systems that promote, safeguard and audit inclusion and diversity in all Australian schools are continuously improved, adequately funded, and expanded to cover extra-curricular and community engagement aspects of education provision. All such programs and coalitions should be further supported by quality frameworks that, as far as possible, confer accreditation on the condition of compliance with these frameworks.
- g. Responsibility for provision of religious instruction within state education systems should be removed from unregulated private operators. Religious studies should be aligned with appropriate national curriculum standards that promote academic rigour and learning environments free from anti-LGBTIQ+ material.
- h. School welfare services should be provided by people who have been employed on the basis of their qualifications, not their religious beliefs. Federal funding for the National School Chaplaincy Program should be reallocated to fund LGBTIQ+ inclusive student welfare and wellbeing programs, and should be increased to ensure all schools have adequate access to student support in the form of psychologists, social workers, youth workers and counsellors. Such support staff should have appropriate training in LGBTIQ+ identity, gender diversity, and adolescent mental health. This would not preclude suitably qualified chaplains from providing such support. All students should have access to counselling services free from discrimination.
- i. Support and funding for peer education programs around sexual and reproductive health that are non-discriminatory and include education appropriate to students of diverse gender and sexuality.
- j. All teachers and support staff must complete a mandated LGBTIQ+ and gender diversity awareness and competence course.



- k. All schools must protect trans, gender diverse and non-binary students from discrimination. This includes:
  - i. Freedom to enrol in non-co-educational schools.
  - ii. Freedom to wear clothing and uniforms that reflect students' gender identity and expression.
  - iii. Freedom to engage in gender-based activities that reflect students' gender identity.
- l. Textbooks used in the delivery of the national curriculum in schools should be screened for discriminatory language, perspectives, or opinions, in line with other text screening processes that already occur in primary and secondary education.
- m. Establishment of a federal education working group to oversee LGBTIQ+ issues and programs in the public education system.

## **10/ Ensuring equality for bi, trans, gender diverse, intersex, ace and aro Australians**

Despite many advances in policy and advocacy for the rights of lesbian and gay Australians, the needs of bi+, trans, gender diverse, intersex, asexual (ace) and aromantic (aro) Australians have not been addressed to the same extent.

- a. Further recognition of the successes, contributions, challenges, inequalities, and rights of bi, trans, gender diverse, intersex, ace and aro Australians.
- b. Ensure that no motion or legal endeavour in support of LGBTIQ+ rights jeopardise positive outcomes for bi+, trans, gender diverse, intersex, ace or aro people. This includes a commitment to always ensure diverse voices are consulted and listened to and that mutually beneficial solutions are achieved.

- c. Bi+, trans, gender diverse, and intersex people often experience a lag in legal recognition compared to lesbian and gay people.
  - i. Sufficient law reform should occur to ensure bi+ people are protected by all state and territory anti-discrimination and equal opportunity legislation.
  - ii. Gender identity should be included as a protected attribute in the Fair Work Act. All state and territory anti-discrimination and equal opportunity legislation should protect non-binary and gender diverse people.
  - iii. Sex characteristics should be included as a protected attribute in the Fair Work Act. All state and territory anti-discrimination and equal opportunity legislation should protect people on grounds of sex characteristics.
- d. Research into the needs of bi+, trans, gender diverse, intersex, ace and aro people from diverse backgrounds including, but not limited to, culturally and linguistically diverse people (CALD), Aboriginal and Torres Strait Islander peoples, new migrants, and people with mental health issues. Research to support the recognition and empowerment of these communities is essential.
- e. Bi+, trans, gender diverse, intersex, ace and aro advocacy organisations and services must be further empowered to address issues pertaining to diversity within diversity.
- f. Policy initiatives for these groups need to be led by these groups.
- g. All policy initiatives to account for lateral hostility across and within LGBTIQ+ groups.

## 11/ Ensuring the health and wellbeing of LGBTIQ+ Australians

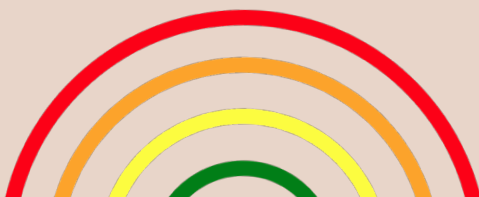
- a. The establishment of an anti-discrimination code of practice governing all health care professionals at the point of care.
- b. Increased LGBTIQ+ awareness, education and training for all health professionals.
- c. Guaranteed funding and support for national health, mental health, alcohol and other drugs, eating disorder, anti-bullying, and phone counselling services that support LGBTIQ+ people.
- d. Increased support for LGBTIQ+ oriented research or data-collection which acknowledges and adequately incorporates information about the health of Australians who might reasonably be considered to be closeted.
- e. Strengthening the National LGBTI Health Alliance, including increased funding and offices around the country, the Darlington Consortium of intersex organisations, and trans led health initiatives.
- f. Government underwriting of essential health and wellbeing services to LGBTIQ+ individuals and communities, such as specialist sexual health, medical, aged care, mental health, gender and support services.
- g. HIV and people living with HIV (PLHIV)

Stigma and discrimination against people living with HIV (PLHIV) causes further disadvantage in numerous domains of life, necessitating additional support for campaigns aimed at reducing stigma and increasing inclusion in day to day life.

- i. Oppose mandatory HIV testing regimes in favour of public health guidelines and awareness.
- ii. Support the development of health prevention, promotion and awareness-based initiatives that focus on reducing HIV in at risk communities.

- iii. Campaign to end HIV through national health initiatives focusing on HIV prevention, treatment and support.
- iv. Support the Meaningful Involvement of People living with HIV (MIPA) on steering committees, peak bodies and as consultants with lived experience of HIV in accordance with the Paris Declaration of 1994.
- v. Support protective policy measures for PLHIV. This includes assurances for the wellbeing of dependents of PLHIV as well as the financing of systems to ensure the safety and wellbeing of these dependents.
- vi. Support the provision of funding for collaborative projects from health and organisations that aim to create holistic programs for community support and anti-discrimination, for example, services that deliver family planning, maternal health, and HIV support.
- vii. Support the attainment and use of statistics for HIV prevalence, experience and intersecting areas.
- viii. Support the broad rollout of Point of Care Testing (POCT) and self-testing.
- ix. PEP (post exposure prophylaxis) should be available through all public hospitals across the country. Adequate training should be provided to all staff who are involved in the administration of PEP in public hospitals. Drugs used for PEP should be standardised across the country in line with the National PEP Guidelines. Government must ensure:
  - 1. Availability, promotion and national roll-out of rapid HIV testing, pre-exposure prophylaxis (PrEP), and PEP, ensuring equitable access within metropolitan, rural and remote communities.
  - 2. Funding support for an overarching body responsible for these strategies.
  - 3. Subsidisation of all testing technologies and medications preventing and treating HIV.
- x. Support an expert review into better outcomes for young people (under 16) at risk of poor access to healthcare due to the need for parental consent relating to prevention and treatment of sexually transmissible infections (STI), HIV testing and treatment, gender identity, mental health and youth work support.

- xi. Ensure HIV prevention, promotion and awareness-based initiatives specifically address trans and gender diverse communities, people who were born overseas (especially who are gay, bisexual, or men who have sex with men), and Aboriginal and Torres Strait Islander peoples.
- xii. Support access of international students and other non-Medicare ineligible people to HIV education, prevention (including where relevant PrEP) and treatment services.
- h. Support the provision of case management services for all young people who seek medical, health or mental health assistance without parental consent.
- i. Increased funding and support for all sexual health services.
- j. Remove discriminatory policies and practices governing blood donation which unduly persecute or discriminate against LGBTIQ+ donors. This includes viewing LGBTIQ+ people through a lens of generalised risk, regarding trans women as men, and other positions that stigmatise and problematise LGBTIQ+ people.
- k. Ensure that a rights-based approach remains central to health, family planning and support services, particularly for LGBTIQ+ people.
- l. Support for partnerships addressing causes of housing stress and homelessness adversely affecting younger persons within the LGBTIQ+ community, especially trans and gender diverse young people. Fund research into the causalities and co-morbidities of LGBTIQ+ homelessness. Ensure LGBTIQ+ homeless people are able to participate in civil society, including in LGBTIQ+ community organisations as well as by supporting enrolment and voting.
- m. Enhanced support for men who have sex with men (MSM) and women who have sex with women (WSW), in addition to identity-based (LGBTQA+) strategies. Use of identity-based or community-based language (eg. LGBTIQ+) should be discarded when practices or perceptions are the concern. Sexual health surveys and data collection must integrate identity and practice-centric approaches.



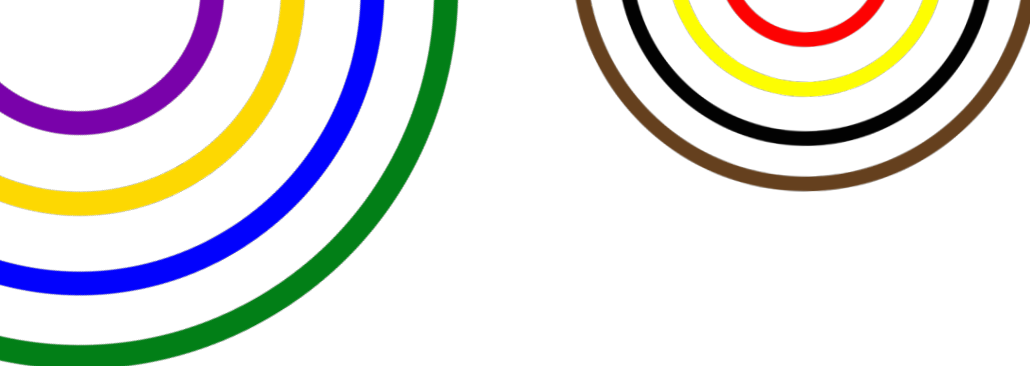


- n. Public health surveys must collect data relating to the LGBTIQ+ population.
- o. Ensure mainstream sexual assault services are trained to support, and are inclusive of, LGBTIQ+ people who are victim/survivors of sexual assault and, where specific needs are identified, to support LGBTIQ+ specific support services.
- p. Support education within LGBTIQ+ communities to reduce lateral violence within these communities and thereby limit the impact of lateral violence on mental health.
- q. Wellbeing of bi+ Australians:

Derogatory myths surrounding bi+ (bisexual, pansexual and multi-gender attraction) orientation, its existence and its characteristics must be challenged and rejected by government, the LGBTIQ+ community and media. These myths and the resulting biphobia and monosexism mean that bi+ people often feel they are not safe to be out in gay, lesbian or heterosexual communities.

- i. Support for a risk assessment approach for all LGBTIQ+ focused policy and health promotion to ensure that such initiatives reach bi+ people who may not identify with the broader LGBTIQ+ community.
- ii. Biphobia incorporates elements of homophobia, however it also incorporates other phenomena, including discrimination originating from within the broader LGTIQA+ community, due to distinct social and historical factors. Biphobia often includes the assertions that (a) bisexuality does not exist, or that (b) bi+ orientation does not require the type of support for inclusion that is required by LGTIQ Australians.
- iii. Funding for urgently needed research into the specific mental health needs and lived experience of bi+ Australians, both for improving the equitable experience of bi+ Australians and to inform policy development.

- iv. Funding for organisations, programs and initiatives aimed at improving health outcomes and inclusion for bi+ Australians.
  
- r. Wellbeing of trans Australians:
  - i. Positive interaction with general practitioners and broader medical services has the potential to greatly improve the wellbeing of trans persons. Interaction that is fraught with misinformation, discrimination and disrespect can have long-lasting and damaging effects on the health of trans persons. There is a shortage of health professionals who are trained in how to work with trans communities in a way that instils dignity and respect. An incentivised accreditation system that registers medical and other health professionals as trans capable should be investigated. This includes enforcement of existing anti-discrimination laws to include trans people in the public system.
  - ii. GPs, psychologists, nurses and other health professionals must be suitably trained so that trans people can visit them without needing to fully explain issues of gender each visit. Supports should be provided for the addition of a trans health unit to standard medical and public health curriculum.
  - iii. Young people must be treated with respect and taken seriously when indicating that their gender does not align with their physical attributes. Support should be provided for any trans awareness strategy that educates young people broadly then encourages individuals to question, clarify then affirm their gender identity. All necessary support must be afforded to trans and gender diverse young people and their families to ensure this process is as effective as possible.
  - iv. Currently any GP can prescribe hormones to trans persons. Many are hesitant to do so, instead sending trans persons to specialist gender clinics. Support should be provided for any initiative that aims to (a) train practitioners regarding the standards and practice for prescribing hormones, engaging with trans people and making appropriate referrals, and (b) inform trans persons of their rights when engaging with practitioners.
  - v. Further funding is needed for trans organisations and gender centres, so they can advocate for trans people regarding education (including education regarding transitioning), medical care, custody, and justice.



- vi. State and federal laws relating to the age of consent for medical access must be harmonised.
  
- vii. As of 2017, puberty blocker hormones and reversible hormone treatments no longer require court consent. However, there remain barriers to the use of hormone treatments for trans people of all ages. A national roadmap, developed in partnership with government and trans organisations, should be developed to ensure all unnecessary barriers to hormone treatment are removed.
  
- viii. Trans people are currently faced with significant out of pocket expenses for surgery and other treatments, often facing exclusion from services if they do not have private health insurance. A human rights-based funding system is required that will allow trans people to have the highest quality gender affirmation surgery and other treatments in Australia without out-of-pocket expenses. The likely outcome to achieve this is Medicare and the public health system, though trans people should not need to be classified as having a chronic illness, disorder or dysphoria in order to have access to this service.
  
- ix. Definitions of trans in psychological assessment must harmonise with the most progressive evidence-based definitions, including an informed consent approach, found in sources such as the International Classification of Diseases (ICD) rather than definitions that degrade.



## 12/ Ensuring the human rights and full inclusion of intersex Australians

The Darlington Statement (2017, [www.ihra.org.au/darlington-statement](http://www.ihra.org.au/darlington-statement)) sets out the priorities of the intersex human rights movement under a range of headings. The Darlington Statement is a vital, authoritative document that should guide all political and policy engagement with a range of issues, including:

- Health and wellbeing (points 15-38)
  - Peer support (points 39-46)
  - Education, awareness and employment (points 51-59)
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- a. The Darlington Statement calls for the immediate prohibition as a criminal act of deferrable medical interventions, including surgical and hormonal interventions, that alter the sex characteristics of infants and children without personal consent. It calls for freely-given and fully informed consent by individuals, with individuals and families having mandatory independent access to funded counselling and peer support.
  - b. Work to ensure that intersex Australians have access to public health information and other community services such that they have unhindered access to every specific health and/or pharmaceutical resource required for daily and lifelong wellbeing.
  - c. Support the work of intersex advocacy bodies, particularly through increased funding (including for research), commissions, policy research, and expertise. All legislative processes affecting intersex people must receive consultative input from intersex representative bodies.



## 13/ Ensuring the bodily integrity of all Australians

Australian law and policy must recognise and protect the bodily integrity of all infants, children and adults. Yogyakarta Principles Plus 10: Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics, to Complement the Yogyakarta Principles (2017, <http://www.yogyakartaprinciples.org/principles-en/yp10>) is a vital document that must be understood in its entirety by all policy professionals and political actors engaging issues of bodily integrity, sex characteristics and the rights of intersex people.

Principle 32 states that:


*Everyone has the right to bodily and mental integrity, autonomy and self-determination irrespective of sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to be free from torture and cruel, inhuman and degrading treatment or punishment on the basis of sexual orientation, gender identity, gender expression and sex characteristics.*

*No one shall be subjected to invasive or irreversible medical procedures that modify sex characteristics without their free, prior and informed consent, unless necessary to avoid serious, urgent and irreparable harm to the concerned person.*

The Yogyakarta Principles Plus 10 calls on states to:

- a. Recognise that forced, coercive and otherwise involuntary modification of a person's sex characteristics may amount to torture, or other cruel inhuman or degrading treatment. (Yogyakarta Principles Plus 10: 10d)
- b. Prohibit non-consensual, intrusive and irreversible treatments on the basis of sexual orientation, gender identity, gender expression or sex characteristics, including forced genital-normalising surgery, involuntary sterilisation, unethical experimentation, and medical display. (Yogyakarta Principles Plus 10: 10e and 32b, adapted)

- c. Regarding the bodily integrity of children and young people:
- i. Take measures to address stigma, discrimination and stereotypes based on sex and gender, and combat the use of such stereotypes, as well as marriage prospects and other social, religious and cultural rationales, to justify modifications to sex characteristics, including of children. (Yogyakarta Principles Plus 10: 32c)
  - ii. Bearing in mind the child's right to life, non-discrimination, the best interests of the child, and respect for the child's views, ensure that children are fully consulted and informed regarding any modifications to their sex characteristics necessary to avoid or remedy proven, serious physical harm, and ensure that any such modifications are consented to by the child concerned in a manner consistent with the child's evolving capacity. (Yogyakarta Principles Plus 10: 32d)
  - iii. Ensure that the concept of the best interest of the child is not manipulated to justify practices that conflict with the child's right to bodily integrity. (Yogyakarta Principles Plus 10: 32e)
- d. Provide adequate, independent counselling and support to victims of violations, their families and communities, to enable victims to exercise and affirm rights to bodily and mental integrity, autonomy and self-determination. (Yogyakarta Principles Plus 10: 32f)
- e. Concerning the Right to Truth (Principle 37):
- i. Preserve documentary evidence of human rights violations based on sexual orientation, gender identity, gender expression and sex characteristics, and ensure adequate access to archives with information on violations based on sexual orientation, gender identity, gender expression and sex characteristics. (Yogyakarta Principles Plus 10: 37g)
  - ii. Ensure that the facts and truth of the history, causes, nature and consequences of discrimination and violence on grounds of sexual orientation, gender identity, gender expression and sex characteristics are disseminated and added to educational curricula with a view to achieving a comprehensive and objective awareness of past treatment of persons on grounds of sexual orientation, gender identity, gender expression and sex characteristics. (Yogyakarta Principles Plus 10: 37h)

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- iii. Commemorate the suffering of victims of violations on the basis of sexual orientation, gender identity, gender expression and sex characteristics through public events, museums and other social and cultural activities. (Yogyakarta Principles Plus 10: 37i)

## **14/ Ensuring the wellbeing of older LGBTIQ+ Australians**

Recognition and protection of LGBTIQ+ elders, including access to appropriate community based, residential and palliative care, and protection from discrimination.

- a. Funding for research into the needs of the older LGBTIQ+ community
- b. The inclusion of LGBTIQ+ outcomes in all agenda care standards linked to accreditation and the introduction of LGBTIQ+ relevant Quality Indicators for residential care.
- c. Increased funding to support LGBTIQ+ care needs through the provision of funding to special needs groups under the Aged Care Act 1997.
- d. National consistency and inclusive legislation for wills, power of attorney, advanced care directives, and other end of life needs.
- e. Funding for the further development and implementation of programs aimed at supporting older LGBTIQ+ persons experiencing loneliness and/or isolation.
- f. Establishment of an LGBTIQ+ consultation system to provide advice and advocacy in all aged care and home and community care services.

- g. Implementation of a mandatory LGBTIQ+ accreditation process for home and community care providers, aged care providers and providers of residential aged care and ACAS and ACAT services. This training will be implemented systematically with a top down approach and will result in the development of an approved provider list.
- h. Mandatory LGBTIQ+ training for all aged care workers and health professionals and the inclusion of LGBTIQ+ competencies in VET qualifications and relevant training certificates.
- i. Removal of the ability of Commonwealth-funded aged care services operated by religious organisations to discriminate against employees on the basis of their sexual orientation or gender identity, to help ensure all aged care services are genuinely-inclusive environments.
- j. Promotion of the National LGBTI Ageing and Aged Care Strategy to services working with all people aged 50+.
- k. Development of formal partnerships between providers of aged care, home and community care and LGBTIQ+ peak bodies to increase awareness of LGBTIQ+ elders.

## **15/ Supporting equality for LGBTIQ+ Australians with a disability**

All communities, systems, places of government, workplaces and places of education must be inclusive of LGBTIQ+ Australians of all abilities.

- a. The expression and acceptance of LGBTIQ+ people with a disability is enshrined in several international treaties and declarations, including: various National, State and Territory Disability Strategies; the UN Convention on the Rights of Persons with Disabilities (CRPD) and General Comment 7, and anti-discrimination and equal opportunity legislation. LGBTIQ+ Australians with disability have the right to the



same freedoms as all other Australians. Alongside the right to civic participation and protection from abuse and neglect, the National Disability Insurance Scheme (NDIS) and its associated personal planning, funding and Approved Quality Auditor Scheme must ensure that LGBTIQ+ Australians with disability are fully enabled to express their sexual orientation and gender identity without hindrance.

- b. Support for full provision of choice and decision-making mechanisms for LGBTIQ+ people with disability through the National Disability Insurance Scheme (NDIS) and in organisations that support people with sensory, cognitive, acquired, intellectual and physical disability.
- c. Enhancement of standards governing disability support provision and disability support organisations, including the NDIS Practice Standards, to incorporate specific LGBTIQ+ provisions and guidelines, particularly the freedom to fully express gender identity and sexual orientation, supported by a culture of risk mitigation rather than avoidance.
- d. A review of the processes and permissions that may currently hinder the gender affirmation of a trans person with dual disability whereby a mental health issue may affect the consent and reporting processes of a support organisation or health service.
- e. A review of the disability support pension (DSP) scheme and its ability to afford people with cognitive disability the opportunity to live in cohabitative relationships with a partner. At present, partnered pension payments for people with little to no prospect of future additional income are not sufficient for long term relationships.
- f. Inclusion of LGBTIQ+ provisions in all government funded contracts and tenders that support relationships and sexuality education or training for people with intellectual or cognitive disability.
- g. Support for self-advocate-led disability awareness and education of LGBTIQ+ organisations and communities to reduce stigma and discrimination against LGBTIQ+ people with disability.

- h. Support for the establishment of a National LGBTIQ+ Disability peak organisation and/or national voice.

## 16/ Supporting LGBTIQ+ Aboriginal and Torres Strait Islander Communities

All Australians regardless of race, background, religion, political affiliation, sexual orientation, gender identity, sex characteristics or any other distinguishing characteristic have the right to life, liberty, freedom, security, access to essential services and the right to practice and learn their culture, language and traditional ceremonies in an environment free from discrimination.

Australians desire to live in a harmonious country that accepts and redresses the wrongs of the past, including the harmful effects of colonisation on Aboriginal and Torres Strait Islander peoples. People have better health outcomes when they are accepted, welcomed and feel that they belong.

Australia's Aboriginal and Torres Strait Islander peoples possess the oldest, continuous culture in the world and are the original occupants and custodians of the lands and waters that were later called Australia. These lands and waters were colonised without being ceded. Aboriginal and Torres Strait Islander peoples have a strong customary, spiritual and cultural bond with the lands and waters of Australia and this bond must be respected.

Through the Uluru Statement from the Heart, Aboriginal and Torres Strait Islander peoples came together to call for:

- **Voice:** Enshrining a First Nations Voice in the Australian Constitution that would empower Aboriginal and Torres Strait Islander people.
- **Treaty:** Establishing a Makarrata Commission to supervise a process of agreement-making with Australian governments, and
- **Truth:** With the Makarrata Commission also overseeing a process of truth-telling about Australia's history and colonisation.

Non-Indigenous Australians, including non-Indigenous LGBTIQ+ Australians should listen to the Uluru Statement from the Heart and support the efforts of Aboriginal and Torres Strait Islander peoples to achieve Voice, Treaty, Truth.

Constitutional acknowledgement of Indigenous communities should not extinguish the possibility of a formal treaty whereby Indigenous peoples can claim sovereignty over their lands and waters now or in the future.

Aboriginal and Torres Strait Islander peoples have the right to self-determination. This includes political representation at all levels of government and the right to be involved as true partners in the planning, development, execution and evaluation of all policies, programs, services, and allocation of resources that affect them, their lives and their connection to the land and waters.

LGBTIQ+ Aboriginal and Torres Strait Islander peoples experience multiple forms of disadvantage, necessitating improvements in accessibility of services including health, housing, childcare, legal services and education. This includes ensuring that all Aboriginal and Torres Strait Islander communities whether rural, remote or metropolitan have access to high quality, culturally appropriate services.

- a. Provisions supporting LGBTIQ+ Aboriginal and Torres Strait Islander communities to be included in Reconciliation Action Plans at the federal, state and local levels.
- b. Support for Aboriginal and Torres Strait Islander services to undertake LGBTIQ+ professional development and/or LGBTIQ+ inclusive practice accreditation to ensure that staff are adequately skilled to cater to the needs of community members who are or identify as LGBTIQ+.
- c. Provision of resources to ensure that Aboriginal and Torres Strait Islander LGBTIQ+ social support groups, including organisations for sistagirls and brothaboys, are able to provide culturally sensitive spaces where LGBTIQ+ people can seek support while strengthening culture.
- d. Provision of training and resources to Aboriginal and Torres Strait Islander health workers to ensure that they can provide appropriate information and support to



the community regarding sexual and reproductive health, including the provision of affordable contraception, treatment for STIs and HIV, PrEP, PEP and other vital medical care.

- e. Support for programs and initiatives to address the over-incarceration of Aboriginal and Torres Strait Islander people, including LGBTIQ+ Aboriginal and Torres Strait Islander people.

## **17/ LGBTIQ+ Australians in the sex industry**

Sex workers in Australia are experts on their own lives and work. Laws and policy on sex work must reflect this and be driven by consultation with sex workers and representative peer sex worker organisations. Laws, policy and the enforcement of laws and policy on sex work must support the human rights, labour rights, health and safety of sex workers.

Both in Australia and globally there are a variety of organisations that work on issues relating to sex work, some of whom provide direct services to sex workers. Sex workers have a long history of organising and advocating on their own behalf for their own rights. A peer sex worker organisation is an organisation run by and for sex workers, with all members, volunteers and staff (at every level) being either current or former sex workers.

Peer sex worker organisations specifically exclude other parties in the sex industry, such as owners/operators, managers, receptionists, ancillary workers (such as cleaners and drivers) and clients.

There are a number of non-sex worker organisations across Australia that focus some or part of their work on sex work. These organisations generally fall into three categories:

- Health organisations that provide services to sex workers while also providing services to other parties in the sex industry
- Religious organisations, some of whom may support sex workers' human rights, but who may also lobby for the abolition of sex work on moral grounds
- Self-identified 'feminist' organisations, who view all sex work as a form of violence against women and call for the criminalisation of sex work

The voices of peer sex worker organisations must be prioritised over these other organisations and voices in the development of equitable policy. Non-sex worker researchers must better interrogate their own motives for researching sex work, and sex workers must be positioned as active, not passive, voices in research about sex work.

Sex worker organisations worldwide call for the full decriminalisation of sex work. The full decriminalisation of sex work involves the removal of all criminal laws relating to sex work, allowing sex work to be regulated like other work. This does not mean no regulation, but that sex work should be regulated like any other work.

*Mandatory testing for sex workers perpetuates prejudices and unfounded fears of sex workers as diseased. It fuels stereotypes that have flow on effects in the way sex workers are treated by the public, media, health organizations and the wider community... These prejudices have wide ramifications. The Australian Red Cross, for example, bans sex workers from donating blood because sex workers are perceived to be "high risk"... This "risk" has no evidentiary basis, but its myth serves as a foundation for ongoing discrimination, and the maintenance of prejudicial and damaging laws... (Jeffries, Fawkes and Stardust 2012)*

- a. The full decriminalisation of sex work recognises sex work as work and is essential as a first step in beginning to address disparities between the rights of sex workers and those of other members of society. Full decriminalisation includes full protection of sex-workers under workplace and industrial regulations.
- b. Sex workers' own representative peer sex worker organisations are best placed to deliver peer education, peer support, outreach and advocacy for their community – these organisations must be recognised and funded for this work to occur.
- c. Broad anti-discrimination protections must be enacted to ensure the wellbeing and protection of sex workers.
- d. Spent convictions legislation is critical in removing convictions retained under prior criminalisation/licensing of sex work. These convictions create lifelong barriers to employment, education, housing, child custody and feed into many other forms of discrimination against sex workers.



- e. Stigma and discrimination remain as persistent issues for the sex worker community – continuing work in these areas requires the support by government of representative peer sex worker organisations, and the ongoing recognition and inclusion of these organisations by government in future law reform, policy and practice.

## **18/ Promoting LGBTIQ+ inclusion in local government and community, sport and the arts**

A significant academic, social and legislative history underpins the journey to inclusion in Australia. Inclusion requires periods of advocacy, affirmative action, targeted assistance and negotiation.

Many LGBTIQ+ people, especially in isolated or small communities, find it difficult to be open about their orientation. Many feel compelled to move to a big city to seek integration into the more urbanised LGBTIQ+ community.

It is important that LGBTIQ+ people can live, work, recreate, play sport, engage in the arts and actively contribute in every Australian community. It is therefore important that local governments support LGBTIQ+ people and communities within their area of influence.

- a. Mandatory Access and Inclusion or Health and Wellbeing local government planning must include strategies for LGBTIQ+ inclusion, including provisions for addressing mental health, youth and young adults, LGBTIQ+ elders, anti-discrimination and feedback and liaison.
- b. Support for greater powers of review for peak bodies and state and federal government in ensuring local governments meet their inclusion and wellbeing planning requirements.
- c. Program and service delivery involving culturally diverse LGBTIQ+ Australians should be consultative and informed by peak bodies. Specific funding must be available for programs that address complications arising from the intersection of LGBTIQ+, CALD and faith communities.

- d. Support for partnerships that decrease discrimination, increase participation and promote inclusion in sport at all levels.
- e. Support and acknowledgement of organisations or enterprises that create safe spaces or hubs for LGBTIQ+ meetings, celebrations and networking.
- f. Change Commonwealth, state and territory anti-discrimination laws to remove any exemptions allowing the exclusion of people based on their sexuality or gender identity from any sporting activities.
- g. Support for LGBTIQ+ cultural and community events and tourism, ensuring that these initiatives are free from discrimination and held in equal esteem as other community and cultural events.
- h. Support for the mapping of LGBTIQ+ services at local government level, and across states and territories, to provide information to people accessing those services, and to encourage co-ordination and where relevant integration between these services.

## **19/ Empowering LGBTIQ+ Australians in Workplace and Business**

A country that embraces diversity becomes more innovative and productive. LGBTIQ+ Australians desire to see an Australia in which the power of diversity is harnessed and celebrated through: addressing anti-LGBTIQ+ bullying, harassment and discrimination; promoting the inclusion of LGBTIQ+ considerations in industrial agreements; requiring employers to provide safe work environments for LGBTIQ+ Australians, and fostering a new conversation among large and small businesses about the strength of a diverse and affirming work culture.

- a. The development of certifiable standards and programs that review and certify organisations' commitment to removing discrimination and enhancing inclusion, particularly in workplaces, government, centres of education and community organisations.
- b. Explicit integration of protections for LGBTIQ+ people in OHS/WHS regulations.
- c. Support for a specific anti-discrimination focus inside small business, chambers of commerce, peak bodies, industry bodies and similar entities. This includes actively advocating for culture change with the leadership of these entities and increasing the scope of anti-discrimination statutes for services/ businesses wishing to deny service to people based on gender, sexuality or other characteristics.
- d. Removal of exceptions in state and territory anti-discrimination laws that allow partnerships of five or less people, or employers with limited numbers of employees, to discriminate on the basis of attributes like sexual orientation and gender identity.

## **20/ Creating opportunities for LGBTIQ+ Australians in rural and regional communities**

Bold and innovative LGBTIQ+ initiatives often emerge from regional, rural and remote communities, initiatives from which other LGBTIQ+ communities can learn. No longer should the assumption be made that it is inevitable that LGBTIQ+ people have to move from their communities to metropolitan centres to live, fully participate and thrive. Regardless, regional, rural and remote LGBTIQ+ communities experience unique barriers to inclusion and it is essential that state and territory governments commit resources to supporting and celebrating them.

Initiatives that drive visibility, safety and access to inclusive services and resources must be prioritised.

- a. Strategies must be implemented that lead to an increase in GPs in regional, rural and remote communities who are skilled in LGBTIQ+ engagement.

- b. Strong support for continued and increased funding for services that support LGBTIQ+ and gender diverse persons living in regional, rural and remote areas in domains such as youth and young adult services, suicide prevention, coming out, counselling, housing, gender transitioning, and HIV and STI testing and treatment.
- c. Funding provided to rural and regional LGBTIQ+ health or community development programs must be accompanied by quality frameworks and outcome benchmarking to ensure that successes are celebrated and emulated, with systems for ongoing funding put in place.
- d. The extent to which LGBTIQ+ people experience inclusion in regional, rural and remote communities is often dependent on the inclusive practices, policies and attitudes of local governments and large service providers (eg. health care providers). Large organisations must meaningfully engage with LGBTIQ+ community members through advisory and governance strategies that delegate genuine decision-making authority to LGBTIQ+ community members. In particular, all organisations and programs that deliver services whereby those services may be reasonably assumed to be particularly relevant to LGBTIQ+ community members must include LGBTIQ+ considerations at all levels of planning and operations.
- e. Increased support for young LGBTIQ+ Australians requiring pathways and strategies to navigate difficult family circumstances, employment and poor community attitudes.
- f. Expansion and strengthening of projects and partnerships that connect mainstream services and LGBTIQ+ people while also ensuring economic development, community development, mental health, youth work, inclusive sexuality education, police and community safety, public health and other information and service delivery programs are LGBTIQ+ inclusive.



## **21/ Protecting Australians from the LGBTQA+ conversion movement**

Motivated by various minority views of LGBTQA+ people and present in a range of religious and secular settings, the LGBTQA+ conversion movement views same-sex attraction, transgender identity and gender diversity as forms of 'brokenness', a concept that has no bearing in modern psychology or medicine.

The movement is comprised of a series of practices ('conversion practices') grounded in an ideology ('conversion ideology') and is sometimes known as Sexual Orientation and Gender Identity Change Efforts (SOGICE) or the ex-gay and ex-trans movement.

Several overseas jurisdictions have classified therapeutic expressions of the movement as fraudulent, while Malta has criminalised both practice and referral.

The movement has caused considerable harm to the mental health of many Australians.

Although several LGBTQA+ affirming faith-based organisations are working to create positive change within Australia's religious bodies, the conversion movement must be addressed through a combination of legislation, regulation, investigation and community education in a range of domains. A narrow response to the movement that only includes a ban on therapeutic expressions of the movement may have limited impact on preventing the harms of the conversion movement because much of its teaching and practices are characterised as protected religious activities.

The Human Rights Law Centre (Australia) recently released its Preventing Harm, Promoting Justice report while a coalition of survivors launched the SOGICE Survivor Statement. The documents offer very similar definitions and solutions. Survivors and allies have designated and endorsed the SOGICE Survivor Statement as a primary reference point for media, politicians, government and LGBTQA+ community leaders wanting to learn more about survivors' perspectives.

- a. Survivors must be equal partners in defining the movement. Attempts by non-survivors to define the movement consistently result in definitions and interventions that inadequately address the scope, complexity, breadth, motivations and ideology behind the movement.

- b. An inquiry into the extent and prevalence of the ex-gay/ex-trans/conversion movement in the experience of LGBTQIA+ Australians. This should be national and broad enough to examine the influence of the core assertions (or 'ideology') of the movement, rather than being limited to strictly therapeutic contexts.
- c. Regulatory and legislative enforcement of the directives of Australian peak psychological and health bodies that prohibit the use of conversion practices by mental health professionals, including social workers, unregistered and registered health professionals, teachers and more. These bodies include the Australian Psychological Society (APS) and Australia New Zealand Psychiatric Association (ANZPA). Activities must include any attempts to change, suppress, cure, heal or repair the sexual orientation or gender identity of children or adults.
- d. Greater powers for health complaints and consumer affairs authorities to support the sufficient investigation of all claims of conversion practices.
- e. A public health and awareness campaign to explicitly target those at risk of the movement's influence and refute its key messages and assertions.
- f. Modification of legislation to classify as vilification the assertion that trans and same-sex attracted Australians are inherently disordered.
- g. Protection of young Australians from SOGICE and the ex-gay/ex-trans/conversion movement's practices and ideology. Exposure often comes through third parties entering Australian schools and must therefore be addressed through:
  - i. Enforced standards for all chaplaincy (where this continues), guidance counsellor and religious education programs.
  - ii. Training for all government funded youth and mental health services regarding how to engage with the survivors of the movement, as well as the ideology behind the movement.
  - iii. Awareness training for teachers in state education systems.



- iv. Training to be undertaken by school chaplains that addresses the potential harm caused by conversion practices to same-sex attracted and gender questioning young people.
- h. The counselling industry:
  - i. Inclusion of compulsory content and clauses that systematically refute the ideology and practices associated with the conversion movement, with associated audit controls, in all tertiary courses that contain a counselling component.
  - ii. Implementation of licensing and standards for counsellors through a government regulator to prevent LGBTQA+ Australians from being exposed to conversion practices.
  - i. Tighter regulation to prevent the broadcast and advertising of conversion movement events and content such as radio shows, television programs and conferences. The Federal Government should work with relevant federal agencies and the States to ensure that classifications and ratings for publications (television, books, online content) promoting conversion ideology reflect the negative impact on the psychological health of individuals which can be caused by this content.
- j. Funding for LGBTQA+ and mental health organisations to:
  - i. Boost public awareness and understanding of the ex-gay/ex-trans/conversion movement and SOGICE.
  - ii. Support survivors of the ex-gay/ex-trans/conversion movement and SOGICE.
- k. Australian Governments must issue statements that clearly address and condemn the damaging ideology behind the ex-gay/ex-trans/conversion movement and SOGICE.
- l. Creation of an offence that criminalises any attempt to remove a person from Australia for the purposes of administering conversion practices.
- m. Implementation of Conversion Practices Survivor Redress Schemes or Commissions in states and territories, guided by a tribunal or panel of experts, to assess survivor claims, refer survivors to support services, authorise payments to cover recovery

costs (eg. Medicare-funded psychological support), and guide mediation and/or legal processes where appropriate.

- n. Applied research into specific faith communities to develop culturally appropriate, evidence-based interventions that will raise awareness about the harm caused by conversion practices and support the development of best practice spiritual care for LGBTQA+ people.

## **22/ Creating an inclusive culture in media and communications**

- a. Promotion of inclusive language in locally produced news and current affairs content.
- b. Support for LGBTQA+ health and mental health awareness initiatives in Australian television and radio.
- c. Support for initiatives that seek to present LGBTQA+ health and identity awareness to young people in a positive and normative manner in Australian media.
- d. Prohibitive measures for all organisations or individuals that raise censorship classifications of content solely due to the presence of LGBTQA+ themes.
- e. Ensure that homophobic, biphobic, and transphobic media content receives an appropriately specific rating.
- f. Meaningful consequences and compulsory rehabilitative measures for derogatory reporting or incidents in broadcast, print or online media that denigrate the LGBTQA+ and gender diverse communities.

## 23/ Improving outcomes for LGBTIQ+ Australians in justice, police and corrections systems

- a. Hate crimes with homophobic, biphobic or transphobic motives must be recognised as such within the judicial system. Discrimination, oppression and violence because of sexual orientation, gender identity or sex characteristics are contrary to basic human rights and must always be fought with vigour.
- b. Support for funding of research into the costs and effects of hate crimes and violence perpetrated against LGBTIQ+ Australians. This research will then be used to inform anti-violence and policing measures.
- c. The removal of convictions for same-sex sexual acts between consenting adults from legal and criminal records. This should include removal of convictions for people who would not have been convicted other than for an unequal age of consent.
- d. HIV is a public health issue, not a criminal justice issue. Prosecutorial guidelines should be developed to guide all cases of deliberate exposure to HIV in the criminal justice system. Aim to move people out of the criminal model and into a rehabilitative stream. Oppose every use of discriminatory law when engaging people living with HIV, or the acquisition of HIV.
- e. Support for the development and use of national guidelines for people who put others at risk of acquiring HIV. This includes support for a rehabilitative and anonymous public health approach when engaging those to whom these guidelines are applied.
- f. Removal of all HIV specific laws as such laws are discriminatory and obsolete.
- g. Increased and sustained funding for LGBTIQ+ awareness raising and training programs for police and law enforcement officers.
- h. The development and implementation of improved data collection on the incidence and types of heterosexist and cisgenderist violence experienced by LGBTIQ+ people. This may include:



- i. Government support to ensure that Police's data collection systems have the capacity to collect accurate and comprehensive data relating to heterosexist, homophobic, biphobic and transphobic violence.
- ii. Partnerships between state, territory and federal Police forces and LGBTIQ+ community organisations to develop alternative, community-based options for data collection and reporting.
- i. The diversification of mechanisms for reporting anti-LGBTIQ+ violence including anonymous online reporting for incident data collection
- j. Ensure that where trans and gender diverse people are placed in custody, they are housed according to their self-determined gender identity and that, while in custody, they have access to all necessary health services in relation to their gender identity.
- k. Provide greater funding to LGBTIQ+ specific legal services, to ensure vulnerable communities are able to access supportive legal services, and to provide education across the LGBTIQ+ community about their legal rights.
- l. Support policies to ensure Australian Federal Police and state and territory police services are inclusive in their employment practices, including LGBTIQ+ and especially trans and gender diverse employment, because a police service that resembles the community is more likely to better engage with it.

## **24/ Honouring the dignity, successes, historical contributions and experience of LGBTIQ+ Australians**

Throughout Australia's history, discriminatory culture, laws and attitudes have caused significant trauma and intergenerational suffering for LGBTIQ+ Australians.

- a. The most appropriate response to this history is bipartisan support for initiatives that seek to recognise the success, work and achievements of LGBTIQ+ Australians. This includes initiatives in media, the arts, sports, industry and business.
  
- b. Recognition should be most strongly demonstrated by Australia's elected representatives, particularly on the following significant days: Mardi Gras and Pride Marches; Wear it Purple Day; Intersex Awareness Day; Intersex Day of Solidarity; Celebrate Bisexuality Day (aka Bisexual Visibility Day); International Lesbian Day; Transgender Awareness Week; Transgender Day of Visibility, Transgender Day of Remembrance; Asexual Awareness Week, and IDAHOBIT.

## **25/ Ensuring fairness and equality for Australian women**

Australia is one of the world's most developed countries, yet it is ranked globally as 24th for gender equality. Women experience discrimination in multiple domains of their lives. This is further amplified for LGBTIQ women and non-binary people.

Examples of this discrimination and disadvantage include: unequal pay for like work roles and therefore lower levels of superannuation; restricted access to managerial and executive positions due to unconscious bias and discriminatory work culture; higher living costs due to more frequent need of essential services; statistically higher share of unpaid work in domestic and community domains; and statistically higher risk and experience of family violence.

Women over the age of 35 also experience greater disadvantage due to statistically lower workforce participation and education due to past prevailing social attitudes. Women between the ages of 20 and 40 experience discrimination in employment due to assumptions and expectations regarding maternity leave and child rearing.

Australian women are frequently the carers of children, ageing parents and family members with a disability. It is often more viable for mothers to stay at home with their children than it is to participate in the workforce and engage child-care arrangements, despite improvements in workplace and social structures that aim to create other options. This has significant implications in all spheres of life, including in health, finances, employment, superannuation, careers, recreation, housing and relationships.

Of Australians who care for their elderly parents, 70% are women. Women earn 18.2% less than men. Women are more likely to be sexually harassed in the workplace. Women spend twice as many hours performing child rearing duties as men. Current support payments do not sufficiently mitigate the risk of poverty experienced by many Australian women.

The Australian government must ensure that such examples of deep inequality are adequately addressed through legislation, financial support, funding of childcare arrangements, and workplace practices.

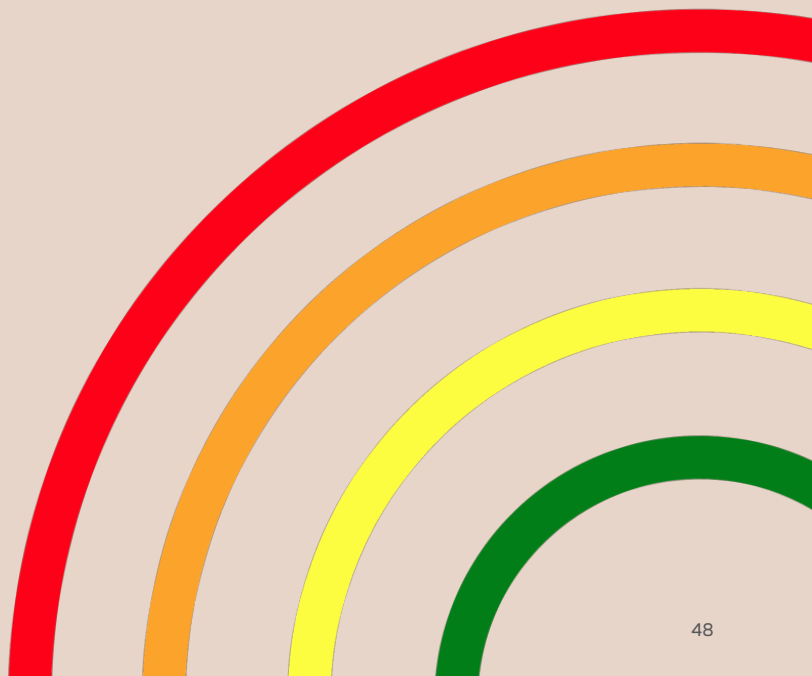
- a. Harmonisation of all anti-discrimination legislation protecting women, with greater attention given to recognising the risk of unconscious bias and allow women to balance work and family.
- b. Ensuring all anti-discrimination legislation is aligned with international human rights charters.
- c. Six months guaranteed paid parental leave at 100% of regular salary with a \$70,000 cap plus superannuation, with a safety net floor of the minimum wage plus 20%.
- d. Introduction of a means tested government co-contribution to superannuation for women earning less than \$60,000 per year.
- e. Increase to the Child Care Rebate and the Family Tax Benefit.
- f. Introduction of legislation ensuring women receive equal pay for equal work.
- g. The introduction of a 40% minimum female board membership quota for all companies earning more than \$15 million, in line with Norwegian and Icelandic standards.

- h. Protections against workplace discrimination in recruitment, staff culture, remuneration, entitlements and access to higher management.
- i. Protection from discrimination in the workplace for women experiencing domestic violence at home and greater capacity for women to access leave and flexible workplace arrangements.
- j. Access to high quality reproductive health services, including access to all medical and other services required for women to have their reproductive health rights protected.
- k. Ensure trans women are afforded full and equal access to all women's spaces within and outside of the LGBTIQ+ community.

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