



## Issues Paper

October 2017

# Lesbian, Gay, Bisexual, Trans and Intersex (LGBTI) children and young people

## What is meant by LGBTI?

LGBTI refers collectively to people who are lesbian, gay, bisexual, trans and/or intersex, and is the most commonly used way to refer to people who have a diverse gender identity or sexual orientation, or who are intersex.

The Commissioner for Children and Young People understands there are a range of terms and definitions that people use to define their gender or sexuality. The Commissioner's office will use the broad term LGBTI to inclusively refer to all people who are lesbian, gay, bisexual, trans and intersex, as well as to represent other members of the community that use different terms to describe their diverse sexuality and/or gender.

LGBTI people exist across all countries, cultures, and communities, and evidence of their existence has been noted throughout history, from early human civilisation to the modern day.<sup>1</sup> Many cultures and societies have traditionally accepted and recognised diverse gender and sexuality expressions and identities.<sup>2</sup>

Data collection relating to the population of LGBTI people in Australia is very limited, and collected inconsistently, making it difficult to provide accurate population estimates, however some estimates place the prevalence of LGBTI people in Australia anywhere between 3 to 11 per cent<sup>3 4</sup> of the Australian population.

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<sup>1</sup> UN Free and Equal n.d., *Fact Sheet: LGBT Rights: Frequently Asked Questions*. United Nations Human Rights Office. Retrieved from <https://www.unfe.org/wp-content/uploads/2017/05/LGBT-Rights-FAQs.pdf>

<sup>2</sup> UN Free and Equal n.d., *Sexual Orientation and Gender Identity Throughout History*. United Nations Human Rights Office. Retrieved from <https://www.unfe.org/sexual-orientation-gender-identity-nothing-new/>

<sup>3</sup> Richters J et al. 2014, 'Sexual identity, sexual attraction and sexual experience: the Second Australian Study of Health and Relationships', *Sexual Health*, Vol. 11, pp. 451 – 460.

<sup>4</sup> Department of Health and Ageing 2012, *National Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Ageing and Aged Care Strategy*, Commonwealth of Australia. Retrieved from [https://agedcare.health.gov.au/sites/g/files/net1426/f/documents/08\\_2014/national\\_ageing\\_and\\_aged\\_care\\_strategy\\_lgbt\\_print\\_version.pdf](https://agedcare.health.gov.au/sites/g/files/net1426/f/documents/08_2014/national_ageing_and_aged_care_strategy_lgbt_print_version.pdf)

Understanding gender identity and sexuality can be complex, however the following concepts provide guidance.

**Gender identity:** This refers to the way that a person defines their internal sense of gender. While many people's gender identity matches the sex they were assigned at birth (i.e. male or female), for some people this is not the case. People who do not identify as the sex they were assigned at birth may identify as transgender, trans, non-binary or a variety of other terms that reflect their gender identity.<sup>5</sup>

**Sexual orientation:** This refers to a person's physical, romantic and/or emotional attraction towards other people. People who identify as heterosexual are attracted to people of the opposite sex, whereas gay men and lesbian women are attracted to individuals of the same sex, and bisexual people are attracted to both men and women. Some people may have other sexual orientations, including being pansexual or omnisexual (i.e. attracted to all genders, including non-binary genders), as well as asexual (i.e. does not experience any form of sexual attraction but may experience emotional attraction).<sup>6</sup> A person's sexual orientation is distinctly different to their gender identity.

**Intersex:** This refers to people who are born with sexual anatomy, reproductive organs and/or chromosomes that are inconsistent with the typical definitions of male or female. There are a range of different intersex variations, some which may be apparent at birth, and others that may not become apparent or known until later in life. Intersex people experience the same range of diversity in relation to their gender identities and sexual orientation, and may identify as male, female or another gender variation.

## Why do we need a specific focus on LGBTI children and young people?

Most LGBTI people live happy, successful and fulfilling lives, have developed strength and resilience as a result of their life experiences and have positive hopes and aspirations for their futures. Many LGBTI people are passionate about creating positive changes for the LGBTI community, by translating their own experiences to pursue social justice and advocacy for LGBTI rights and equality.

LGBTI people are not a homogenous group. As well as individual differences between people, the needs and experiences of people who are trans, intersex or gender diverse in other ways are likely to be very different to those who are lesbian, gay, bisexual or of other sexual orientations. Regardless of the differences between

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<sup>5</sup> UN Free and Equal n.d., *Fact Sheet: LGBT Rights: Frequently Asked Questions*. United Nations Human Rights Office. Retrieved from <https://www.unfe.org/wp-content/uploads/2017/05/LGBT-Rights-FAQs.pdf>

<sup>6</sup> Ibid.

individual members of the LGBTI community, there a range of factors and common issues that impact on their health, safety and wellbeing, or prevent them from being recognised and respected for who they are, treated equally, or from having the same opportunities as other members of the community.

The issues that affect LGBTI people largely stem from social and cultural beliefs and assumptions about gender and sexuality, including systemic discrimination at an individual, social, political and legal level. Dominant social views tend to assume or believe that most people are heterosexual<sup>7</sup> and that people should partner with a person of the opposite sex. These beliefs often affect people in same-sex or other relationships through explicit stigmatisation or discrimination, or by failing to recognise their relationships or its legitimacy. Examples of this include assuming a person is heterosexual, or not recognising a same-sex or other partner as being next of kin.

Similarly, gender is typically viewed in a binary and fixed manner (i.e. male or female), which does not recognise people whose identity lies outside of this (e.g. people who identify as non-binary or who are trans). This can lead to explicit discrimination towards people who do not present as stereotypically male or female in their appearance, characteristics or behaviours, or through a failure to acknowledge genders other than male or female (for example, survey forms that only provide gender options as male or female, exclusively male and female facilities such as bathrooms and change rooms, or single-sex competitive sporting activities).

The Universal Declaration on Human Rights and the principles of equality and non-discrimination apply equally to all people, making it unlawful to discriminate against a person based on their sexual orientation, gender identity or if they are intersex.<sup>8</sup> Despite this, the United Nations has expressed significant concern about violence and discrimination against LGBTI people.

LGBTI people, both internationally and in Australia, often face issues such as social exclusion; violence, abuse and discrimination; a lack of support from their families and communities; and barriers to access appropriate support services.<sup>9 10</sup> These experiences of discrimination and social exclusion negatively impact the health and

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<sup>7</sup> Levay S et al n.d., *Discovering Human Sexuality: Glossary*. Retrieved from <https://discoveringhumansexuality3e.sinauer.com/glossary.html>

<sup>8</sup> UN Free and Equal n.d., *Fact Sheet: International Human Rights Law and Sexual Orientation and Gender Identity*, United Nations Human Rights Office. Retrieved from [http://www.ohchr.org/Documents/Issues/Discrimination/LGBT/FactSheets/unfe-11-UN\\_Fact\\_Sheets\\_GenderIdentity\\_English.pdf](http://www.ohchr.org/Documents/Issues/Discrimination/LGBT/FactSheets/unfe-11-UN_Fact_Sheets_GenderIdentity_English.pdf)

<sup>9</sup> Ibid.

<sup>10</sup> Hillier, L., et al. 2010, *Writing Themselves in 3: The third national study on the sexual health and wellbeing of same sex attracted and gender questioning young people*, Australian Research Centre in Sex, Health and Society, La Trobe University.

wellbeing of LGBTI people, particularly their mental health, resulting in higher rates of mental health issues, including rates of suicide.<sup>11</sup>

Some LGBTI people may also experience pressure to change their sexuality or gender identity, however attempts to do so can have harmful psychological or physical impacts on the individual.<sup>12</sup> Many international human rights and mental health organisations have called for a ban on any intervention aimed at changing an individual's sexual orientation or gender identity, under the premise they are often in direct violation of human rights conventions, and are not based on evidence.<sup>13 14</sup> This call includes a ban on any forced or non-consensual medical procedures (including surgeries, sterilisations etc.), 'conversion' interventions, or other coercive treatments on LGBTI children, young people or adults.

All of these issues affecting LGBTI people or communities apply equally to, and impact significantly on, children and young people.

Children and young people often develop an awareness of their sexuality or gender identity at a young age or prior to adolescence<sup>15 16</sup> and may experience a range of additional challenges relating to their sexual orientation, gender identity or intersex status. These include issues relating to understanding and making sense of their identity, "coming out" to family and friends, being bullied or excluded at school, a lack of support from friends and families, reliance on parental consent and support to access services or change identity, and all of the other stresses that children and

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<sup>11</sup> Suicide Prevention Australia 2009, *Position Statement: Suicide and self-harm among Gay, Lesbian, Bisexual and Transgender communities*, Suicide Prevention Australia. Retrieved from [https://www.suicidepreventionaustralia.org/sites/default/files/resources/2016/SPA-GayLesbian-PositionStatement\[1\].pdf](https://www.suicidepreventionaustralia.org/sites/default/files/resources/2016/SPA-GayLesbian-PositionStatement[1].pdf)

<sup>12</sup> UN Free and Equal n.d., *Fact Sheet: LGBT Rights: Frequently Asked Questions*, United Nations Human Rights Office. Retrieved from <https://www.unfe.org/wp-content/uploads/2017/05/LGBT-Rights-FAQs.pdf>

<sup>13</sup> United Nations Human Rights Office of the High Commissioner 2016, *"Pathologisation – being lesbian, gay, bisexual and/or trans is not an illness" For International Day against Homophobia, Transphobia and Biphobia*, Office of the High Commissioner of Human Rights. Retrieved from <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19956&LangID=E>

<sup>13</sup> Schroeder M & Shidlo A 2002, 'Ethical issues in sexual orientation conversion therapies: An empirical study of consumers', *Journal of Gay and Lesbian Psychotherapy*, Vol. 5 No 3-4.

<sup>14</sup> Australian Psychological Society, 2015. APS Position Statement on the use of psychological practices that attempt to change sexual orientation. Melbourne: APS. Retrieved from [https://www.psychology.org.au/Assets/Files/APS%20Position%20Statement%20on%20Psychological%20Practices%20that%20attempt%20to%20change%20Sexual%20Orientation\\_Members.pdf](https://www.psychology.org.au/Assets/Files/APS%20Position%20Statement%20on%20Psychological%20Practices%20that%20attempt%20to%20change%20Sexual%20Orientation_Members.pdf)

<sup>15</sup> Q Life 2016, *Young People: Q Life Tip Sheet*, Q Life. Retrieved from <https://qlife.org.au/wp-content/uploads/2013/11/19-Young-People-for-web.pdf>

<sup>16</sup> Strauss P et al, 2017, *Trans Pathways: the mental health experiences and care pathways of trans young people. Summary of results*, Telethon Kids Institute, Perth, Australia.

young people face in relation to managing school and education, relationships, puberty, body image and independence.<sup>17</sup>

For trans and intersex children and young people, puberty can also be a time of distress in regards to changes and developments of their bodies, and in terms of navigating gendered environments, such as school camps, toilets and school uniforms.

The school environment can be a particularly challenging experience for children and young people. High levels of bullying, violence and discrimination that can occur within school and education settings<sup>18</sup> have a significant impact on the education, employment and health and wellbeing of LGBTI children and young people.<sup>19</sup>

This may be further exacerbated for children and young people who are from other minority groups and may experience other forms of discrimination, particularly if they are Aboriginal, from culturally and linguistically diverse backgrounds, have a disability, or are from a religious faith community.<sup>20 21</sup> These circumstances may impact a child or young person's willingness to "come out" to family and friends, and the level of support they receive from their peers, families, or wider community.<sup>22</sup>

LGBTI people are more likely to experience poor mental health than the general population, and the rates of mental health issues among LGBTI children and young people – including depression, anxiety, self-harm and suicidal thought – warrant urgent attention.<sup>23</sup>

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<sup>17</sup> Response Ability 2014, *Lesbian, Gay, Bisexual, Transgender and Intersex*, Commonwealth of Australia. Retrieved from [http://www.responseability.org/\\_data/assets/pdf\\_file/0012/11703/Lesbian,-Gay,-Bisexual,-Transgender-and-Intersex-LGBTI.pdf](http://www.responseability.org/_data/assets/pdf_file/0012/11703/Lesbian,-Gay,-Bisexual,-Transgender-and-Intersex-LGBTI.pdf)

<sup>18</sup> Hillier L et al. 2010, *Writing Themselves in 3: The third national study on the sexual health and wellbeing of same sex attracted and gender questioning young people*, Australian Research Centre in Sex, Health and Society: La Trobe University.

<sup>19</sup> United Nations 2016, *Living Free & Equal: What States are doing to tackle violence and discrimination against lesbian, gay, bisexual, transgender and intersex people*, United Nations. Retrieved from <http://www.ohchr.org/Documents/Publications/LivingFreeAndEqual.pdf>

<sup>20</sup> Ibid.

<sup>21</sup> Morris S, 2016, *Snapshot of Mental Health and Suicide Prevention Statistics for LGBTI People and Communities*, National LGBTI Health Alliance, Sydney, Australia. Retrieved from <http://lgbtihealth.org.au/wp-content/uploads/2016/07/SNAPSHOT-Mental-Health-and-Suicide-Prevention-Outcomes-for-LGBTI-people-and-communities.pdf>

<sup>22</sup> Hillier L et al. 2010, *Writing Themselves in 3: The third national study on the sexual health and wellbeing of same sex attracted and gender questioning young people*, Australian Research Centre in Sex, Health and Society: La Trobe University.

<sup>23</sup> Morris S 2016, *Snapshot of Mental Health and Suicide Prevention Statistics for LGBTI People and Communities*, National LGBTI Health Alliance, Sydney, Australia. Retrieved from

These mental health issues are particularly high for trans young people, with an Australian research report finding that:

- around 70 to 75 per cent of trans young people have a clinical diagnosis of depression and/or anxiety
- almost 80 per cent have self-harmed
- close to 50 per cent having attempted suicide at one point in their life.<sup>24</sup>

The period of highest risk of suicide for LGBTI children and young people is where they have acknowledged their sexuality or gender identity, but have not told anyone else.<sup>25</sup>

Having a diverse sexual orientation, diverse gender identity, or being intersex are not in themselves risk factors for poor mental health, rather it is the social exclusion and discrimination that LGBTI children and young people face which has a negative impact on their mental health and wellbeing. There is a distinct link between children and young people's experiences of homophobic or transphobic discrimination and abuse with poor mental health outcomes, self-harm, suicide attempts and drug use.<sup>26 27</sup>

Therefore, any interventions aimed at supporting LGBTI children and young people must address the social and political attitudes, beliefs and environments which stigmatise and discriminate against LGBTI people.

## **What is already being done to support LGBTI children and young people?**

### **Direct service provision to LGBTI children and young people**

There are a small number of dedicated direct services available to support LGBTI children and young people in WA, however these services typically operate on limited funding and there is limited service provision in regional areas of the State.

The services that exist include:

- a specialist gender diversity service that provides support, consultation and intervention for trans or gender diverse children and young people

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<http://lgbtihealth.org.au/wp-content/uploads/2016/07/SNAPSHOT-Mental-Health-and-Suicide-Prevention-Outcomes-for-LGBTI-people-and-communities.pdf>

<sup>24</sup> Strauss P et al 2017, *Trans Pathways: the mental health experiences and care pathways of trans young people. Summary of results*, Telethon Kids Institute, Perth, Australia.

<sup>25</sup> Q Life 2016, *Young People: Q Life Tip Sheet*, Q Life. Retrieved from.

<https://qlife.org.au/wp-content/uploads/2013/11/19-Young-People-for-web.pdf>

<sup>26</sup> Ibid.

<sup>27</sup> Hillier L et al. 2010, *Writing Themselves in 3: The third national study on the sexual health and wellbeing of same sex attracted and gender questioning young people*, Australian Research Centre in Sex, Health and Society: La Trobe University.

- peer-support services for LGBTI young people
- educational and inclusion support programs for school settings
- other services to provide education and information sessions on LGBTI issues, and telephone counselling.

## **Protections for LGBTI people in Western Australia**

The *WA Equal Opportunity Act 1984* makes it unlawful to discriminate against a person because of their sexual orientation (specifically, heterosexuality, homosexuality, lesbianism and bisexuality) in certain areas of public life, as well as discriminating based on gender history against a person who has undergone gender affirming surgery (or gender reassignment as it is written in the Act) and been issued with a gender reassignment certificate.

Those who believe they have been discriminated against on these grounds are able to lodge a complaint with the Equal Opportunity Commission, who will assess the complaint and, if accepted, work to investigate and conciliate the complaint. Where conciliation is not successful, or where the complainant is unsatisfied with the outcome, a referral can be made to have the matter addressed by the State Administrative Tribunal.

The *Equal Opportunity Act 1984* does not provide protections for those individuals who are in the process of transitioning, or who are unable to meet the formal gender reassignment requirements. These protections are provided at a federal level under the *Sex Discrimination Act 1984 after the Act was amended in 2013*.

The *Sex Discrimination Act 1984* makes it unlawful to discriminate against a person on the basis of sexual orientation, gender identity and intersex status under federal law. This Act includes more inclusive definitions and addresses gaps that exist at a state or territory level. People are able to complain to the Australian Human Rights Commission if they believe they have been discriminated on the grounds of their sexual orientation, gender identity or intersex status.

The Equal Opportunity Commission in WA has previously undertaken some work to highlight the issues facing LGBTI people in WA and provide some guidance towards addressing their needs. This has focused on developing a set of guidelines for supporting sexual and gender diversity in schools and addressing bullying and discrimination,<sup>28</sup> as well as running an annual lecture series focusing on the rights of trans and intersex people in WA. However, the Commission's remit is very broad and has experienced capacity constraints under funding changes.

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<sup>28</sup> Equal Opportunity Commission of WA 2013, *Guidelines for supporting sexual and gender diversity in schools: Sexuality discrimination and homophobic bullying*, Equal Opportunity Commission, Perth, Western Australia. Retrieved from <http://vivid.blob.core.windows.net/eoc-sitefinity/publications/gender-diversity-guidelines-in-schools.pdf?sfvrsn=2>

The Australian Human Rights Commission has a broad responsibility to promote and protect human rights in Australia. They have undertaken a number of major projects to better understand and promote community understanding about the issues affecting LGBTI people in Australia, as well as advocacy to improve federal laws and policies to protect the rights of LGBTI people.<sup>29</sup>

## **What needs to be done to promote better inclusion of LGBTI children and young people and better outcomes?**

While a number of initiatives exist to address the needs of LGBTI children and young people, there is a lack of clear direction and oversight at a more systemic level. There is no clear responsibility across the WA State government to ensure the rights and protections of LGBTI children and young people, with no specific minister or director general holding this responsibility or portfolio.

This means change and progress often occurs in an ad-hoc manner and government departments respond or develop their own processes, policies and strategies in isolation. Whole-of-government plans or strategies for LGBTI inclusion, such as the strategy in South Australia,<sup>30</sup> or Victoria's introduction of an Equality Branch of the Department for Premier and Cabinet and appointment of a Commissioner for Gender and Sexuality, provide important platforms to improve outcomes and inclusion for LGBTI people.

There are a very limited number of services to provide support for LGBTI children and young people, and often those that do are under-resourced, at capacity or do not provide services outside the metropolitan area. Given the mental health issues affecting many LGBTI children and young people, and the importance of accessing appropriate and timely support, it is important that services are expanded and resourced to support the demand.

The wellbeing of LGBTI children and young people will only improve when there is improved understanding, awareness and acceptance of LGBTI people within the community. It is critical that the broader community, as well as mainstream organisations and services, are equipped with the knowledge and information that they need to ensure greater respect, inclusion and acceptance of the LGBTI people.

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<sup>29</sup> Australian Human Rights Commission 2015, *Resilient individuals: sexual orientation, gender identity and intersex rights*, Australian Human Rights Commission.

<sup>30</sup> Department for Communities and Social Inclusion, 2014, *South Australian Strategy for the Inclusion of Lesbian, Gay, Bisexual, Transgender, Intersex and Queer People 2014 – 2016*, Government of South Australia, Adelaide. Retrieved from <https://publicsector.sa.gov.au/wp-content/.../20140501-DCSI-LGBTIQ-Strategy.pdf>



## **In summary, the following key areas are recommended:**

### **Strategic approaches to promote LGBTI outcomes and inclusion in WA**

- Anti-discrimination laws, policies and strategies which offer full protections and promote the rights of all LGBTI children and young people, including strengthening the *Equal Opportunity Act 1984* to provide protections for trans or gender diverse children and young people and banning 'conversion' interventions.
- Development of a whole-of-government strategy to ensuring policies and practices of all organisations are inclusive of LGBTI children and young people, including, but not limited to:
  - health
  - education
  - employment
  - housing and accommodation
  - child protection
  - disability
  - sport and recreation
  - justice.
- Establishing clear responsibilities and systems of accountability within government to promote the rights and monitor the wellbeing of LGBTI children and young people.
- Implementing the Safe Schools principles across all WA schools, to improve school's understanding about diversity, and embedding a whole-school approach to educating students and staff about diversity, providing support to LGBTI students and staff, and reducing bullying and discrimination.
- Building the capacity of professionals to support LGBTI children and young people, in particular the medical and health sector (including GPs, psychologists etc.)<sup>31</sup> and the education sector.<sup>32</sup>

### **Recognition and support of LGBTI children and young people as a priority group**

- Recognition of LGBTI children and young people as a priority group for mental health interventions.

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<sup>31</sup> Strauss P et al. 2017, *Trans Pathways: the mental health experiences and care pathways of trans young people. Summary of results*, Telethon Kids Institute, Perth, Australia.

<sup>32</sup> United Nations 2016, *Living Free & Equal: What States are doing to tackle violence and discrimination against lesbian, gay, bisexual, transgender and intersex people*, United Nations. Retrieved from

<http://www.ohchr.org/Documents/Publications/LivingFreeAndEqual.pdf>

- Modelling the demand of services for LGBTI children and young people, and the utilising this to plan for the adequate provision of services.
- Adequate funding of services to address the wellbeing needs of LGBTI children and young people across WA, with a specific focus on children and young people living in regional and remote communities.
- Increased resourcing to be provided to the Gender Diversity Service to enhance capacity, reduce waitlist and meet demand.

### **Improving community understanding and acceptance**

- Strategies to address discrimination, violence and abuse of LGBTI children and young people.
- Community awareness and education strategies directed at children and young people, parents, professionals and the general community to improve understanding about LGBTI children and young people and promote inclusion, including age-appropriate sexuality education for children and young people<sup>33</sup> and information and support for parents and families.

### **Understanding the needs and experiences of LGBTI children and young people**

- Targeted research and consultation to improve understanding about some of the specific needs of LGBTI children and young people across the State.
- Improved data collection processes, particularly population data studies, to be inclusive of LGBTI status and used to inform public policy and service development.<sup>34 35</sup>
- Use of genuine consultation processes to ensure that LGBTI children and young people have a voice in decision making that affects them.

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<sup>33</sup> Ibid.

<sup>34</sup> Ansara G 2016, *Making The Count: Addressing Data Integrity Gaps In Australian Standards For Collecting Sex And Gender Information [White Paper]*, Sydney, National LGBTI Health Alliance

<sup>35</sup> United Nations 2016, *Living Free & Equal: What States are doing to tackle violence and discrimination against lesbian, gay, bisexual, transgender and intersex people, United Nations*. Retrieved from <http://www.ohchr.org/Documents/Publications/LivingFreeAndEqual.pdf>