

Equal Identities:

A human rights review of the experiences of
trans and gender diverse people in Australia

March 2026



Acknowledgements

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- Dr Natalie Amos, Australian Research Centre in Sex, Health and Society (ARCSHS), La Trobe University
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Content warning

This report contains content which highlights the experiences and impacts of discrimination against trans and gender diverse people. It also includes descriptions of violence and other content and language which readers may find distressing. Please reach out to these or any other support services as needed:

- **QLife** offers free and anonymous peer-support and referral service for LGBTIQ+ people. Phone: 1800 184 527 | Website: qlife.org.au
- **Lifeline** offers 24-hour crisis support and suicide prevention services. Phone: 13 11 14 | Website: lifeline.org.au
- **13Yarn** offers 24/7 culturally safe crisis support for Aboriginal and Torres Strait Islander people. Phone: 13 92 76 | Website: 13yarn.org.au
- **Kids Helpline** offers counselling for children and young people aged 5–25 years. Phone: 1800 55 1800 | Website: kidshelpline.com.au

Aboriginal and Torres Strait Islander people are advised that this document may contain images of persons who have passed away.

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Commissioner's foreword

Trans and gender diverse people are a valued part of our community. They have always existed and make vital contributions to all walks of Australian social, economic, political and cultural life.

In the 21st century, we have seen greater visibility of trans and gender diverse people. We have also witnessed great strides in acceptance and legal protections for trans and gender diverse people in Australia.

Despite this progress, trans and gender diverse people still face significant barriers to the full realisation of their human rights. In recent years, there has been growing opposition to recognising trans and gender diverse people's identity and rights. Accompanying this opposition has been a great deal of misinformation and disinformation.

Equal Identities provides a snapshot of trans and gender diverse people's rights in Australia. The Commission listened to trans and gender diverse people's experiences and reviewed Australian and international research. We heard the distinct experiences and challenges facing trans and gender diverse people from diverse backgrounds, such as Aboriginal and Torres Strait Islander people, culturally and racially marginalised people and people with disability.

Many of the challenges facing trans and gender diverse people have their origins in stereotypes about gender, masculinity and femininity. Understanding the experiences of trans and gender diverse people provides insights which benefit people of all genders.

The submissions that we received addressed many domains of life for trans and gender diverse people. We have grouped the report into 3 themes that lie at the core of human

rights: being safe, being seen and heard (dignity) and being able to participate. Within those themes, *Equal Identities* examines topics such as violence, healthcare, education, employment and sport.

The report's recommendations focus on actions governments and service providers can take. They aim to remove barriers, reduce prejudice and enable trans and gender diverse people to flourish in Australia.

I thank the people and organisations who made submissions and the members of the expert advisory group. I especially thank those trans and gender diverse people who shared your lived and living experience. I appreciate your strength, adaptability and commitment to authenticity.

It is fitting to close with a quote from the edited collection *Nothing to Hide: Voices of Trans and Gender Diverse Australia* (2022). It is from Amao Leota Lu – a Samoan Fa'afafine/trans woman who is a public speaker, performer and advocate. She says:

[T]here are so many things I love about my gender. My creativity, my artform, my playfulness. My joy of just being fully myself. Nothing beats the truth of it. I love my Fa'afafine and trans identity. I wear it as a badge of honour. I think for a lot of trans people, living their authentic self, it's one of those goals that's so important to us because that's all we want at the end of the day. To live and be our authentic self.¹



Dr Anna Cody
Sex Discrimination
Commissioner

Executive summary

Trans and gender diverse people in Australia come from all walks of life. They are neighbours, teachers, parents, nurses, doctors, sex workers, students, artists, professionals, athletes, truck drivers and retirees. They make many contributions to Australian society in community organisations, government, business, cultural and family life. Trans and gender diverse people have the same potential to thrive and flourish as anyone else.

Yet, many trans and gender diverse people experience significant and preventable barriers to their safety, dignity and full participation in society. These barriers span all domains of life, including healthcare, housing, education, employment and public life, and are often intensified for those who also experience racism, ableism, ageism and other forms of marginalisation. Trans and gender diverse children and young people also face additional, distinct challenges.

Despite these documented barriers, trans and gender diverse people, and LGBTIQ+ communities more broadly, are rarely considered or included in data collection, or in the design and implementation of government policies, programs and frameworks that directly affect them.

Equal Identities explores challenges facing trans and gender diverse people across all domains of Australian society. It provides a national human rights review of these experiences, drawing on the expertise, insight, lived and living experience shared in 97 submissions, as well as Australian and international research. It identifies what must change to ensure trans and gender diverse people can fully realise their human rights.

If governments, service providers and civil society address these challenges and barriers, trans and gender diverse people will be able to flourish. That will benefit not just trans and gender diverse people, but everyone in Australia.

The findings and recommendations are organised around 3 interconnected themes:

- being safe
- being seen and heard (dignity)
- being able to participate.

Purpose and scope

This report examines the human rights situation of trans and gender diverse people in Australia. It maps challenges, identifies examples of good practice, and proposes practical reforms for governments and service providers to ensure all people can live safely and participate fully in Australian life.

Methodology

The Commission reviewed a wide range of Australian and international research and considered 97 submissions, including but not limited to subject matter experts from:

- academics and research institutions
- advocacy and activist organisations and groups
- community-controlled health organisations
- healthcare professionals and organisations
- legal professionals and organisations
- policy makers and workers
- service providers.

Human rights framework

This report is based on Australia's commitments under international human rights law, including the:

- *International Covenant on Civil and Political Rights*
- *International Covenant on Economic, Social and Cultural Rights*
- *Convention on the Rights of the Child*
- *Convention on the Elimination of All Forms of Discrimination Against Women*
- *Convention on the Rights of Persons with Disabilities*

- *International Convention on the Elimination of All Forms of Racial Discrimination*
- *Convention Relating to the Status of Refugees*
- *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.*

Although most of these treaties were written with specific groups in mind, their protections extend to trans and gender diverse people. The core principles of fairness, non-discrimination, dignity and safety apply to everyone.

These treaties affirm universal rights to equality, safety, health, education and participation in community life. This report also draws on the Yogyakarta Principles, which explain how these rights apply to people of all sexual orientations, gender identities, gender expressions and sex characteristics.

Being safe

Violence and harassment: Trans and gender diverse people report high levels of physical, sexual and technology-facilitated violence and harassment – in public, at home and online – with significant impacts on health and wellbeing. Abuse also targets allies and people perceived as gender nonconforming. Gaps in legislation and inconsistent anti-discrimination and anti-vilification protections across states and territories create confusion and barriers for trans and gender diverse people seeking safety, protection and redress.

Online safety: Exposure to sustained online hate, disinformation and coordinated harassment (including doxxing) undermines dignity, privacy and participation. Platform policy changes, weak moderation and algorithmic amplification of hostile content are increasing harm, especially for trans and gender diverse young people.



Forcibly displaced people: Trans and gender diverse refugees and asylum seekers face persecution risks, evidentiary burdens in protection processes, limited access to services, and safety concerns in immigration detention. These barriers are compounded by system settings that rarely reflect or accommodate gender diversity.

Justice, policing and imprisonment: Many trans and gender diverse people distrust police due to past harms and current experiences of disrespect and misgendering. In prisons, trans and gender diverse people – particularly trans women – face heightened risks of violence, extended solitary confinement framed as ‘protective custody’, barriers to accessing healthcare and difficulties with legal recognition. Best practice emphasises alternatives to imprisonment, and justice reinvestment.

Housing: Trans and gender diverse people are overrepresented in homelessness and housing stress. Discrimination occurs across private rentals, social housing and crisis accommodation. Gendered service models can exclude or endanger people whose legal markers or affirmed gender are not recognised.

Being seen and heard (dignity)

Data and research: Australia lacks robust, consistent population data on trans and gender diverse communities, which limits policy design, service delivery and accountability. The ABS 2020 Standard provides best-practice questions (sex recorded at birth, current gender, sexual orientation and variations of sex characteristics) and should be adopted across all governments and research.

Health and wellbeing: Trans and gender diverse people experience poorer health outcomes because of stigma, discrimination and service inaccessibility. Systemic barriers include long wait times, costs, under-resourced services, limited provider training and experiences of misgendering, deadnaming and privacy breaches.

Gender-affirming healthcare:

Gender-affirming healthcare is an evidence-informed, individualised suite of social and clinical support. It includes gender-affirming hormone treatment and, for young people, puberty suppression under clinical governance. Contemporary standards and reviews indicate positive outcomes and note the need for ongoing high-quality longitudinal research. However, there are many barriers to accessing gender-affirming healthcare, including cost, geography, gaps in professional training and false information.

Legal recognition: Many people face hurdles updating their name and gender marker across identity documents and systems (including health, employment checks and crisis services). Best practice is self-determination in legal recognition, with streamlined, accessible and nationally consistent processes.

Being able to participate

Religion: Broad religious exemptions from anti-discrimination laws, especially in education and service provision, create uncertainty and can legitimise the exclusion of trans and gender diverse students, staff and service users. Clear, consistent protections are needed to ensure access and safety.

Education: From early learning to tertiary contexts, students require clear policies, trained staff and inclusive environments to learn safely.

Employment: Discrimination persists in recruitment, career progression and workplace culture. A positive duty would obligate employers to, as far as practicable, prevent discrimination and build systems to respond when discrimination does occur.’

Sport: Recent public discussions have contributed to the increased exclusion of trans and gender diverse people from sport. Inclusion policies should be evidence-based, aligned with human rights standards and proportionate to the level and nature of each sport. Community sport should emphasise broad participation.

Recommendations

Recommendation 1

Federal, state and territory governments should introduce consistent legislation to protect LGBTIQ+ people and their associates from vilification, incitement of hatred and threats of physical harm.

Governments should design these laws in consultation with LGBTIQ+ communities, including trans and gender diverse communities, and should include both civil prohibitions and criminal offences.

Recommendation 2

The Australian Government Department of Social Services should require and report on LGBTIQ+ and trans and gender diverse representation in their workforce and on key advisory groups, committees and rapid reviews in key areas such as housing, domestic, sexual and family violence prevention, and community services.

Recommendation 3

The Domestic, Family and Sexual Violence Commission (DFSVC) should establish an ongoing LGBTIQ+ working group, including trans and gender diverse representation, to:

- a. provide advice on initiatives to prevent and respond to gender-based violence, including implementation of the [*National Plan to End Violence Against Women and Children 2022-2032*](#)

- b. develop initiatives to build workforce capacity and understanding of how intersecting forms of discrimination can affect trans and gender diverse people's experiences of domestic, family and sexual violence
- c. strengthen relationships and cross-capacity building between the DFSVC, crisis response services and trans and gender diverse stakeholders.

Recommendation 4

The Australian Government Attorney General's Department, along with state and territory governments, should establish LGBTIQ+ justice working groups that include trans and gender diverse representation. The working groups should protect the human rights of trans and gender diverse people by:

- a. working with criminal justice systems (police, courts and prison systems) to design and monitor policies and practices
- b. working with the trans and gender diverse community to develop methods to identify and track hate crimes, including community reporting mechanisms
- c. advancing priority areas of justice and law reform, including decriminalisation of appropriate offences, justice reinvestment and measures to address and prevent discriminatory behaviours.

Recommendation 5

Federal, state and territory governments should provide sustainable, targeted funding to address capacity gaps in legal service provision for trans and gender diverse people, as identified in the 2025 report '[A Blueprint for Equality: Resourcing LGBTIQ+ Community Legal Centres](#)'.

Recommendation 6

Federal, state and territory governments should ensure crisis accommodation and homelessness support services offer inclusive support and are adequately funded to do so. This includes increasing sector-wide awareness, understanding and capabilities about intersecting marginalisations which affect trans and gender diverse people from diverse backgrounds.

Recommendation 7

All government, government-affiliated and government-funded bodies that collect demographic data should ensure data on gender, sexuality and innate variations of sex characteristics (sometimes known as intersex variations) is collected in line with the ABS [Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables \(2020\)](#). This includes:

- a. collecting data on gender identity from everybody to ensure that health and support services have the data necessary to meet the needs of trans and gender diverse children and adolescents

- b. implementing new data collection protocols in partnership with LGBTIQ+ and trans and gender diverse specific organisations to establish community trust and ensure privacy and sensitivity concerns are understood.

Recommendation 8

The Australian Government Department of Health, Disability and Ageing should require and report on LGBTIQ+ and trans and gender diverse representation in their workforce and on key advisory groups, committees and rapid reviews. The Department should also establish a specific ongoing LGBTIQ+ Health Advisory Group to:

- a. provide advice on matters relating to trans and gender diverse health, and LGBTIQ+ health more broadly
- b. provide advice on relevant government initiatives affecting LGBTIQ+ communities, such as the [National Suicide Prevention Strategy 2025-2035](#) and the [National Action Plan for the Health and Wellbeing of LGBTIQ+ People 2025-2035](#)
- c. advise on LGBTIQ+ health data collection and contribute to the continuous improvement of the Health Data Portal and key national data sets.

Recommendation 9

Healthcare providers and education and training institutions (i.e. universities, TAFEs) should ensure that all healthcare and healthcare-adjacent workers and students receive education and ongoing professional development on inclusive care for trans and gender diverse people. This includes awareness of how intersecting forms of discrimination can affect trans and gender diverse people's health and access to healthcare services.

Recommendation 10

Federal, state and territory governments should introduce or amend legislation to ban conversion or suppression practices. This legislation should follow the following principles:

- a. design the legislative framework in consultation with survivors of conversion or suppression practices
- b. apply the ban on conversion and suppression practices to both religious and secular settings
- c. make it unlawful to take someone out of the jurisdiction for conversion or suppression practices
- d. allow reporting by third parties
- e. carefully define and provide examples of what is and is not a conversion or suppression practice
- f. include an education plan which covers:
 - i. who is protected by the law
 - ii. how to identify conversion or suppression practices
 - iii. awareness of harm caused by conversion or suppression practices.

Recommendation 11

Federal, state and territory governments should reduce barriers that prevent trans and gender diverse people from accessing all forms of healthcare, including gender-affirming healthcare. Reducing barriers includes:

- a. increasing staff and service resourcing to meet urgent needs on existing waitlists for publicly funded hospitals and clinics
- b. running proactive public awareness campaigns that address misinformation and disinformation which target trans and gender diverse people's healthcare
- c. funding service access for trans and gender diverse people in remote, rural and regional communities.

Recommendation 12

Federal, state and territory governments should:

- a. end pauses on puberty suppressants and other hormone therapies for children and young people
- b. ensure that, in line with other areas of adolescent medicine, *Gillick* competence and clinical standards of care are the framework guiding the provision of healthcare to trans and gender diverse children and young people.

Recommendation 13

The Australian Government should repeal Section 43A of the *Sex Discrimination Act 1984* (Cth).

Recommendation 14

The Australian Government should:

- a. amend section 37(1)(d) and repeal section 38 of the *Sex Discrimination Act 1984* (Cth) and make consequential amendments to the *Fair Work Act 2009* (Cth), as recommended by the Australian Law Reform Commission in its 2024 report [‘Maximising the Realisation of Human Rights: Religious Educational Institution and Anti-Discrimination Laws’](#)
- b. request the Australian Law Reform Commission to further review and make recommendations about how to amend the exemption for religious bodies under section 37(1)(d) of the *Sex Discrimination Act 1984* (Cth).

Recommendation 15

State and territory governments should review and amend their anti-discrimination legislation to ensure that trans and gender diverse people have equal access to publicly funded services, including those provided by religious bodies.

Recommendation 16

The Australian Government Department of Education should require LGBTIQ+ and trans and gender diverse representation on key advisory groups, committees and rapid reviews. The Department should also establish an LGBTIQ+ Youth Advisory Group to provide input into:

- a. education policy settings
- b. the role of teachers
- c. curriculum content
- d. targeted anti-bullying program support.

Recommendation 17

Federal, state and territory education departments should review their current policies, practices and curricula to ensure that they support an inclusive model. This model should embed inclusion of trans and gender diverse students as part of teacher training and professional development for all staff across all levels of government funded education institutions.

Recommendation 18

Educational institutions receiving government funding should have policies to prevent discrimination and harassment of trans and gender diverse students, staff and parents.

Recommendation 19

The Australian Government should expand the positive duty in the *Sex Discrimination Act 1984* (Cth) to cover protected attributes outlined in sections 5A, 5B and 5C of the Act.

Language and Terminology

This glossary was developed in consultation with an advisory board of experts and trans and gender diverse people. Some of the definitions have been adapted from TransHub.² We acknowledge that language is always imperfect and changing, and some definitions are contested. The purpose of this glossary is to provide consistency of meaning within this report.

Term	Definition
Brotherboy	Brotherboy is a term some Aboriginal and Torres Strait Islander people use to describe gender diverse people who have a man's spirit and take on men's roles within the community. Brotherboys have a strong sense of their cultural identity. ³ Not all masculine gender diverse Aboriginal and Torres Strait Islander people use the term Brotherboy to describe themselves.
Cisgender, or cis	Cisgender, often abbreviated as 'cis', refers to individuals whose gender identity aligns with their sex recorded at birth.
Gender	Gender refers to the social and cultural norms, behaviours, and identities that societies associate with being male, female, or non-binary. It also refers to gender identity – which is about how a person feels about themselves – and gender expression, which describes how an individual expresses themselves in various contexts. Gender is distinct from biological sex. ⁴
Innate variations of sex characteristics (also known as intersex variations)	People with innate variations of sex characteristics 'are born with physical or biological sex characteristics (such as sexual anatomy, reproductive organs, hormonal patterns and/or chromosomal patterns) that are more diverse than stereotypical definitions for male or female bodies. For some people these traits are apparent prenatally or at birth, while for others they emerge later in life'. ⁵
LGBTIQA+	LGBTIQA+ is an acronym that stands for Lesbian, Gay, Bisexual, Transgender, Intersex, Queer (or Questioning), Asexual, and other sexual and gender identities. The '+' symbol acknowledges the inclusion of additional identities that are part of the broader spectrum of sexual orientations and gender experiences.
Non-binary	Non-binary is a term used to describe gender identities that fall outside the traditional categories of man and woman. Non-binary encompasses a range of gender experiences that may blend elements of both man and woman, neither or something else entirely. Individuals may use various terms to describe non-binary identities.
Sex recorded at birth	'Sex recorded at birth' refers to the classification of a baby as male or female based on sex characteristics observed at birth. Similar expressions include 'sex assigned at birth', 'sex assumed at birth' and 'sex observed at birth'.

Term	Definition
Sexuality	Sexuality refers to a person's sexual attraction, sexual behaviours, and sexual orientation. ⁶ It encompasses a range of identities and preferences, such as heterosexual, homosexual, bisexual, asexual and more.
Sistergirl	Sistergirl is a term some Aboriginal and Torres Strait Islander people use to describe gender diverse people who have a woman's spirit and take on women's roles within the community. Many Sistergirls live a traditional lifestyle and have strong cultural backgrounds. ⁷ Not all feminine gender diverse Aboriginal and Torres Strait Islander people use the term Sistergirl to describe themselves.
TGD	This is an acronym meaning 'trans and gender diverse' (see below). Another version of the acronym is TGDNB (trans, gender diverse and non-binary). Some trans and gender diverse people do not like the shortened acronym, while other individuals and organisations use it regularly. This report only uses the acronym when it is in direct quotations.
Trans and gender diverse	This is an inclusive term that encompasses individuals whose gender identity or expression differs from societal expectations based on their sex recorded at birth. It recognises a broad spectrum of gender experiences, including transgender, non-binary and other gender diverse identities.
Transgender, or trans	Transgender, often abbreviated as 'trans', refers to individuals whose gender identity differs from their sex recorded at birth. This term encompasses a diverse range of identities and experiences, including those who transition socially, medically or both.



Acronyms and Abbreviations

ABC	Australian Broadcasting Corporation
ABS	Australian Bureau of Statistics
AI	Artificial intelligence
ANROWS	Australia's National Research Organisation for Women's Safety
ARCSHS	Australian Research Centre in Sex, Health and Society
AusPATH	Australian Professional Association for Trans Health
AVO	Apprehended violence order
CALD	Culturally and linguistically diverse
CAT	<i>Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment</i>
CEDAW	<i>Convention on the Elimination of All Forms of Discrimination Against Women</i>
CERD	<i>Convention on the Elimination of all Forms of Racial Discrimination</i>
CRC	<i>Convention on the Rights of the Child</i>
CRPD	<i>Convention on the Rights of Persons with Disabilities</i>
Disability Royal Commission	Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
DSM	<i>Diagnostic and Statistical Manual of Mental Disorders</i>
EHRC	Equality and Human Rights Commission (UK)
eSafety	Office of the eSafety Commissioner
GAC	Gender-affirming care
GAHT	Gender-Affirming Hormone Therapy
GnRHa	Gonadotropin-releasing hormone agonist
GP	General practitioner
GSD	Gender and sexuality diverse
ICCPR	<i>International Covenant on Civil and Political Rights</i>
ICD	<i>International Classification of Diseases</i>
ICESCR	<i>International Covenant on Economic, Social and Cultural Rights</i>
IDAHOBIT	International Day Against Homophobia, Biphobia and Transphobia
ILGA	International Lesbian, Gay, Bisexual, Trans and Intersex Association
IVSC	Innate variations of sex characteristics
LLO/GLLO	Police LGBTIQ+ Liaison Officers
MBS	Medicare Benefits Schedule
NDIS	National Disability Insurance Scheme
NHS	National Health Service (UK)
OHCHR	Office of the High Commissioner for Human Rights
PBS	Pharmaceutical Benefits Scheme
SDA	<i>Sex Discrimination Act 1984 (Cth)</i>
SOGICE	Sexual Orientation and Gender Identity Change Efforts (also known as conversion and suppression practices)
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
WPATH	World Professional Association for Transgender Health

1. Trans and Gender Diverse Human Rights

Everyone is entitled to the recognition and protection of their human rights, regardless of who they are. Human rights protections derive from Australian and international laws which require governments to promote, protect and respect people's dignity and ensure fairness and equal treatment. For trans and gender diverse people, the recognition and protection of human rights is essential so they can live as their authentic selves safely and with dignity.

1.1 Context and methodology of this report

- *Equal Identities* grew out of the need to collate and map the human rights challenges facing trans and gender diverse people in Australia.
- The report draws on scholarly articles, research reports and submissions. Submissions came from a mix of individuals, academics and organisations representing LGBTIQ+ advocacy, health providers, social welfare, law, human rights and women's rights.
- Trans and gender diverse people's lived and living experience is central to the report and the research studies cited.

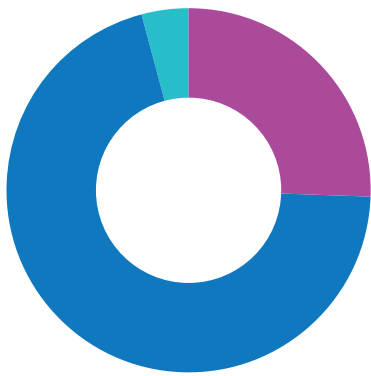
Submission process

This report came out of an identified need to collate and map the interrelated human rights issues facing trans and gender diverse people in Australia. In February 2024, the Australian Human Rights Commission (Commission) called for submissions into 'current and emerging threats to trans and gender diverse human rights' in Australia.

Equal Identities brings together lived and living experience and subject matter expertise from these submissions, along with research, evidence and best practice. It also builds on previous Commission work that has highlighted legal, social and systemic barriers to trans and gender diverse people enjoying human rights in Australia (see Appendix A for a list of previous reports).

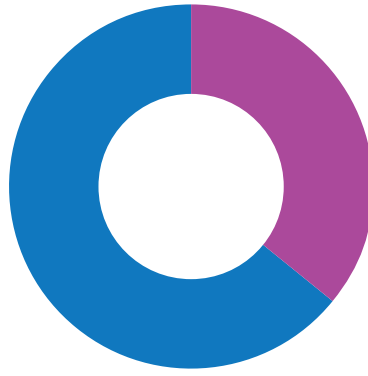
The Commission requested that all submissions outline the individual or organisation's relevant experience or expertise. The Commission received a total of 97 submissions over a 10-week period. The following charts show the types of submissions, how many included lived and living experience and how many incorporated First Peoples' perspectives.

Figure 1: Submission overview



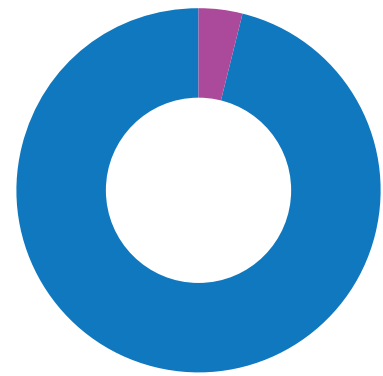
Type of submission

Individual	25.8%
Organisation	70.1%
Anonymous	4.1%



Includes trans and gender diverse lived and living experience

Yes	36.1%
No	63.9%



Includes First Peoples' perspectives

Yes	3.9%
No	96.1%

Individual submissions came from:

- trans and gender diverse people with lived and living experience
- professionals with subject area interest and expertise
 - academic researchers
 - psychologists and psychiatrists
 - lawyers
- self-described activists
- other concerned citizens.

Submissions received on behalf of organisations mostly came from:

- community organisations engaged in frontline service provision
- human rights advocacy groups
- professional associations
- research institutes
- national bodies.

How submissions were used

The submissions identified many of the key themes and topics for this report. Many provided high level insights, as well as evidence and further reading material. They provided substance and direction, and informed recommendations.

Some submissions raised issues that were not part of the project’s scope. Where possible, we have still included these for discussion.

The Commission’s publication or quotation from a submission is not an indication of the Commission’s endorsement of any views or comments contained in that submission.

High level submission themes

Broadly, submissions raised concerns about the full recognition and enjoyment of human rights for trans and gender diverse people across several aspects of life. Submissions addressed:

- healthcare
- education
- employment
- housing
- religion
- social inclusion
- criminal justice systems
- safety.

Submissions that centred the lived and living experience of trans and gender diverse individuals tended to emphasise that their identities were being politicised. They argued that this politicisation was leading to backlash and stigmatisation and that this continues to impact on the wellbeing and livelihood of trans and gender diverse people.

Stakeholders representing diverse community organisations, peak professional bodies, academics and advocacy groups addressed their areas of expertise. They illustrated gaps in policy, legislation or knowledge that limit the full enjoyment of human rights. Those who work directly with trans and gender diverse people also frequently referred to a growth in misinformation and disinformation. They connected false information to increasing rates of bullying, harassment, vilification and threats of violence.

Submissions pointed to a lack of legislative protection across all levels of government. They also identified a lack of trans and gender diverse specific policies, or inclusion in broader policies, across all major domains of life. Service providers frequently do not account for the unique needs of trans and gender diverse people, making services unsafe and unsupportive. As one academic who also works as a psychotherapist summarised:

When services in any of these areas restrict services to a particular gender, or enforce a gender binary, or insist upon treatment according to sex assigned at birth, trans people are not only disadvantaged, but are also excluded.⁸

Several submissions focused on intersecting marginalisations affecting trans and gender diverse people from a range of backgrounds. Those submissions focused on systemic challenges such as racism, ableism and classism alongside other types of exclusion. The submissions emphasised the need for a truly intersectional approach to ensure that *all people* can benefit from the full enjoyment of their human rights.

Intersectionality

The term intersectionality came from Black feminism in the United States. It refers to the way people who have multiple marginalised identities experience discrimination differently. For instance, an Aboriginal woman will experience discrimination differently to an Aboriginal man or an Anglo-European woman. This is because she may experience racism and sexism together, resulting

in a distinct and compounding form of discrimination. When this report talks about taking an intersectional approach or considering intersecting identities, it means considering trans and gender diverse people living with multiple marginalisations – be they based on Indigeneity, race, national origin, disability, age, socio-economic status, religion or any other personal characteristic or attribute.

A small number of submissions questioned the need for the Commission to conduct a review. They rejected the notion that trans and gender diverse people face barriers to the full enjoyment of human rights compared to other groups in Australia. These submissions did not include the lived and living experiences of trans and gender diverse people.

A small number of submissions described a perceived conflict between the rights of trans and gender diverse people and the rights of cisgender people. Usually, they described conflicting rights for cisgender women, children, and in some cases cisgender gay men and lesbians. They linked these perceived conflicts to issues such as trans women's participation in women's sport, laws around gender recognition and single-sex spaces.

While infrequent, a small number of submissions expressed concern that by conducting research into the state of trans and gender diverse people's rights in Australia, the Commission intended to privilege these rights over other groups.

A small number of submissions used this public consultation to attack and denigrate trans and gender diverse people. They made allegations which aligned trans and gender diverse people with sex offenders, paedophiles or as people suffering from severe psychiatric illnesses. These claims lacked factual evidence, and nearly all were individual submissions that failed to meet the Commission guidelines regarding expertise. However, these submissions offer direct insight into the type of harmful rhetoric trans and gender people frequently experience in their daily lives. They are also a stark contrast to the significant body of reputable evidence provided in most submissions.

1.2 International human rights frameworks

- International human rights frameworks centre non-discrimination and upholding the dignity of every person. Although most of these instruments do not explicitly mention trans and gender diverse people, they contain provisions about the universality of human rights.
- The Yogyakarta Principles specifically apply international human rights principles to gender identity and sexual orientation.

International Human Rights Law

International human rights law is founded on the principle that all human beings are born free and equal in dignity and rights, regardless of nationality, ethnicity, gender, religion or any other status. Contemporary international human rights law began with the 1948 *Universal Declaration of Human Rights*. Since then, members of the United Nations (UN) have ratified international treaties which reflect the core values that human rights are universal, interdependent and indivisible, equal and non-discriminatory.⁹

In 1976, 2 significant international treaties entered into force, both of which have been ratified by Australia: the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and *International Covenant on Civil and Political Rights* (ICCPR).

These treaties outline numerous universal rights which are important for trans and gender diverse people, including:

- freedom from discrimination
- equality before the law
- right to liberty and security of person
- right to recognition as a person before the law
- right to privacy
- freedom of expression
- right to just and favourable conditions at work
- right to an adequate standard of living
- right to health
- right to education
- right to take part in cultural life.¹⁰

The UN Human Rights Committee has repeatedly confirmed that the prohibition on discrimination in Articles 2 and 26 of the ICCPR extends to discrimination on the ground of gender identity.¹¹ These articles include the following text:

Article 2(1): Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 26: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.¹²

Similarly, the UN Committee on Economic, Social and Cultural Rights has confirmed that the guarantee of non-discrimination in Article 2(2) of ICESCR extends to discrimination on the ground of gender identity.¹³

Other international treaties also set out human rights protections that apply to trans and gender diverse people. These include:

- *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW)

- *Convention and Protocol Relating to the Status of Refugees* (CPRSR)
- *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT)
- *Convention on the Rights of the Child* (CRC)
- *Convention on the Rights of Persons with Disabilities* (CRPD)
- *International Convention on the Elimination of All Forms of Racial Discrimination* (CERD)
- *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP).

These treaties include rights to freedom from violence and abuse and to participation in decisions that affect a person. For children, this includes the right to have their views heard as their capacity develops. For people with disability, this may include the requirement for supported decision-making processes (rather than substituted decision-making).

Treaty	Ratified by Australia	Came into force in Australia
ICESCR	10 December 1975	10 March 1976
ICCPR	13 August 1980	13 November 1980
CEDAW	28 July 1983	27 August 1983
CAT	8 August 1989	7 September 1989
CRC	17 December 1990	16 January 1991
Optional Protocol for ICCPR	25 September 1991	25 December 1991
CRPD	17 July 2008	16 August 2008
CERD	30 September 1975	30 October 1975

Yogyakarta principles

In 2006, a group of international human rights experts met in Yogyakarta, Indonesia to draft a set of international principles that outline the human rights of LGBTIQ+ people. Unlike UN human rights treaties, the Yogyakarta Principles themselves are not binding. However, the experts agreed that they reflect the existing state of international human rights law.¹⁴ The principles have since been relied upon by a variety of international and State bodies and courts as reflective of existing international human rights law obligations.¹⁵

The introduction to the Yogyakarta Principles declares:

All human beings are born free and equal in dignity and rights. All human rights are universal, interdependent, indivisible and interrelated. Sexual orientation and gender identity are integral to every person’s dignity and humanity and must not be the basis for discrimination or abuse.¹⁶

The original Yogyakarta Principles addressed a range of human rights standards around access to justice, privacy, non-discrimination, employment, education, health, immigration, asylum seeking and the right to participate in public life. Ten years after the Yogyakarta Principles, in 2017, the drafting committee added 9 principles. The ‘plus 10’ principles recognise LGBTIQ+ people in less discussed human rights, particularly those found in ICESCR. The ‘plus 10’ principles also addressed emerging areas of discrimination and recognised human rights on the grounds of gender expression and sex characteristics.¹⁷

A complete list of all Yogyakarta Principles is available in Appendix B. These are the Yogyakarta 'plus 10' principles:

<p>Principle 30: The Right to State Protection</p>	<p>Everyone, regardless of sexual orientation, gender identity, gender expression or sex characteristics, has the right to State protection from violence, discrimination and other harm, whether by government officials or by any individual or group.</p>
<p>Principle 31: The Right to Legal Recognition</p>	<p>Everyone has the right to legal recognition without reference to, or requiring assignment or disclosure of, sex, gender, sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to obtain identity documents, including birth certificates, regardless of sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to change gendered information in such documents while gendered information is included in them.</p>
<p>Principle 32: The Right to Bodily and Mental Integrity</p>	<p>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, inhumane and degrading treatment or punishment on the basis of sexual orientation, gender identity, gender expression and sex characteristics.</p>
<p>Principle 33: The Right to Freedom from Criminalisation and Sanction</p>	<p>Everyone has the right to be free from criminalisation and any form of sanction arising directly or indirectly from that person's actual or perceived sexual orientation, gender identity, gender expression or sex characteristics.</p>
<p>Principle 34: The Right to Protection from Poverty</p>	<p>Everyone has the right to protection from all forms of poverty and social exclusion associated with sexual orientation, gender identity, gender expression and sex characteristics. Poverty is incompatible with respect for the equal rights and dignity of all persons, and can be compounded by discrimination on the grounds of sexual orientation, gender identity, gender expression and sex characteristics.</p>
<p>Principle 35: The Right to Sanitation</p>	<p>Everyone has the right to equitable, adequate, safe and secure sanitation and hygiene, in circumstances that are consistent with human dignity, without discrimination, including on the basis of sexual orientation, gender identity, gender expression or sex characteristics.</p>

<p>Principle 36: The Right to the Enjoyment of Human Rights in Relation to Information and Communication Technologies</p>	<p>Everyone is entitled to the same protection of rights online as they are offline.</p> <p>Everyone has the right to access and use information and communication technologies, including the internet, without violence, discrimination or other harm based on sexual orientation, gender identity, gender expression or sex characteristics. Secure digital communications, including the use of encryption, anonymity and pseudonymity tools are essential for the full realisation of human rights, in particular the rights to life, bodily and mental integrity, health, privacy, due process, freedom of opinion and expression, peaceful assembly and association.</p>
<p>Principle 37: The Right to Truth</p>	<p>Every victim of a human rights violation on the basis of sexual orientation, gender identity, gender expression or sex characteristics has the right to know the truth about the facts, circumstances and reasons why the violation occurred.</p> <p>The right to truth includes effective, independent and impartial investigation to establish the facts, and includes all forms of reparation recognised by international law. The right to truth is not subject to statute of limitations and its application must bear in mind its dual nature as an individual right and the right of the society at large to know the truth about past events.</p>
<p>Principle 38: The Right to Practise, Protect, Preserve and Revive Cultural Diversity</p>	<p>Everyone, individually or in association with others, where consistent with the provisions of international human rights law, has the right to practise, protect, preserve and revive cultures, traditions, languages, rituals and festivals, and protect cultural sites of significance, associated with sexual orientation, gender identity, gender expression and sex characteristics.</p> <p>Everyone, individually or in association with others, has the right to manifest cultural diversity through artistic creation, production, dissemination, distribution and enjoyment, whatever the means and technologies used, without discrimination based on sexual orientation, gender identity, gender expression or sex characteristics. Everyone, individually or in association with others, has the right to seek, receive, provide and utilise resources for these purposes without discrimination on the basis of sexual orientation, gender identity, gender expression or sex characteristics.</p>

Other international human rights discourse

In December 2010, the UN Committee on the Elimination of Discrimination against Women published 'General recommendation No. 28 on the core obligations of States parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women'. General recommendation No. 28 clarified that CEDAW also covers 'gender-based discrimination against women'. It also explicitly mentioned intersectionality and noted '[t]he discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity'.¹⁸

The CEDAW Committee has been clear that the rights enshrined in CEDAW 'belong to all women, including lesbian, bisexual, transgender and intersex women'.¹⁹ In 2018, the CEDAW Committee issued observations about Australia which welcomed the provisions of the *Sex Discrimination Act 1984* (Cth) that introduced prohibitions against gender identity discrimination. The CEDAW Committee also recommended that Australia abolish requirements that trans women who wanted to legally change their gender undergo medical treatment. This recommendation was to 'guarantee the rights of transgender women to bodily integrity, autonomy and self determination'.²⁰ Section 3.4 on legal recognition of gender discusses this topic in more detail.

In July 2011, the UN Human Rights Council passed resolution 17/19. It tasked the UN High Commissioner for Human Rights to commission a study:

documenting discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, in all regions of the world, and how international human rights law can be used to end violence and related human rights violations based on sexual orientation and gender identity.²¹

This was the first resolution of its kind by any UN agency. Resolutions and other United Nations actions relating to LGBTIQIA+ rights followed.²² For instance, since 2016 the UN Human Rights Council has appointed an 'Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity'.²³

Several high-ranking UN officials have also spoken about the urgent need to protect the rights of LGBTIQIA+ people. On 17 May 2023 – the International Day Against Homophobia, Biphobia and Transphobia (IDAHOBIT) – António Guterres, UN Secretary-General, declared:

In every corner of the world, LGBTQI+ people continue to face violence, persecution, hate speech, injustice and even outright murder. Meanwhile, retrograde laws continue to criminalize LGBTQI+ people around the world, punishing them for simply being who they are. Each assault on LGBTQI+ people is an assault on human rights and the values we hold dear. We cannot and will not move backwards.²⁴

Significantly, UN Women has also released numerous public statements in support of LGBTIQIA+ people, including on their website which states: 'UN Women stands together with, and in support of, all members of the LGBTIQIA+ community as we strive to ensure that everyone everywhere, regardless of gender identity, has the same opportunity to live a life free from violence and discrimination'.²⁵

Each section of this report will begin with an overview of some of the more relevant international human rights instruments. They are not an exhaustive list but rather highlight some of the more pertinent articles and principles which support trans and gender diverse people's human rights.

1.3 Introduction to gender diversity

- Gender diversity has always existed. There is evidence from current and historical accounts of gender diverse people across numerous cultures.
- There is no one way to be trans or gender diverse. People affirm their genders in different ways, and this may or may not include medical or surgical interventions.
- With greater rights and protections, trans and gender diverse people have felt safer to be open and live authentically in their affirmed gender.

Histories of gender diversity

Trans and gender diverse people, whether understood in these or other terms, have always existed.²⁶ A recent article in the *Medical Journal of Australia* stated: ‘trans people are not a moral, philosophical or social issue. They are people. The statement “some people are transgender” is a demographic fact, not an ideological position’.²⁷

In Australia, First Peoples cultures have long traditions of people crossing genders. For instance, several Northern Territory First Peoples languages have words to describe a third or non-binary gender:

- Kwarte Kwarte in Arrente
- Kungka Kungka in Pitjantjatjara and Luritja
- Yimpininni in Tiwi
- Karnta Pia in Warlpiri which can be interpreted as ‘like a girl’
- Kungka Wati in Pintipi and Girriji Kati in Waramungu translate to ‘woman/man’.²⁸

There are also examples from rock art and Dreaming stories of people crossing genders.²⁹

Around the world, various cultures similarly have words and cultural roles for gender diverse people. Because language and culture are intertwined, these words do not translate directly to Western words, binaries or understandings of gender. Some examples of gender diversity from Pasifika cultures include:

- fa’afafine and fa’afatama in Samoa
- fakaleitī, leitī and fakatangata in Tonga
- vakasalewalewa in Fiji

- palopa in Papua New Guinea
- pinapinaaine in Kiribati and Tuvalu
- mähū in Hawai’i and Tahiti
- akava’ine in the Cook Islands
- whakawāhine and tangata ira tane among Māori in Aotearoa New Zealand.³⁰

Some people use the acronym MVPFAFF+ to refer to the different Pasifika gender identities and forms of gender expression and sexual orientation.³¹ Among Māori, the word takatāpui traditionally means ‘intimate friend of the same sex’. Now, takatāpui is often used as an umbrella term for all Māori with diverse genders, sexualities and variations of sex characteristics.³²



Examples of terms for gender diverse people from other cultures include:

- Kathoey in Thailand
- Hijra in India, Pakistan and Bangladesh
- Maknyah in Malaysia
- Waria in Indonesia
- nudale asgaya, nudale agehya and asegi among Cherokee in North America
- Sipiniq among Inuit in North America
- Agokwa and Okitcitakwe among Ojibwa in North America.

In North America, many Native Americans and First Nations Peoples now use the word 2Spirit/Two-Spirit as a collective descriptor for the many sexually and gender diverse peoples.³³ However, many now use their own community or tribal terminologies.³⁴ In Australia, some gender diverse Aboriginal and Torres Strait Islander people use the terms Sistergirl and Brotherboy to identify themselves. A Sistergirl is someone recorded male at birth but with a woman's spirit, while a Brotherboy is someone recorded female at birth but with a man's spirit. There are also many trans and gender diverse Aboriginal and Torres Strait Islander people who do not use the terms Sistergirl or Brotherboy.³⁵

In European cultures, there is a long history of gender diversity. Historians have found examples of people who crossed genders or lived non-binary lives from ancient civilisations,³⁶ medieval Europe,³⁷ and in the Modern Era.³⁸ Historians have also documented trans histories in the 20th and 21st centuries in countries like the United States, United Kingdom and Argentina.³⁹ In Australia, too, historians have recorded examples of people living in different genders from the 19th century and histories of trans and gender diverse people in the 20th and 21st centuries.⁴⁰

Defining transgender, transness and gender diversity

The American historian Susan Stryker provides a good definition of the word 'transgender'. It refers to:

people who cross over (*trans-*) the boundaries constructed by their culture to define and contain that gender. Some people move away from their birth-assigned gender because they feel strongly that they properly belong to another gender through which it would be better for them to live; others want to strike out toward some new location, some space not yet clearly described or concretely occupied; still others simply feel the need to challenge the conventional expectations bound up with the gender that was initially put upon them. In any case, it is the movement across a socially imposed boundary away from an unchosen starting place, rather than any particular destination or mode of transition.⁴¹

The definition is intentionally broad because there is no one way to be trans or gender diverse.

What is the difference between sex and gender?

Sex refers to a person's sex characteristics, such as their chromosomes, hormones and reproductive organs. While typically based upon the sex characteristics observed and recorded at birth, a person's reported sex can change over the course of their lifetime and may differ from their sex recorded at birth.

Gender is a social and cultural concept. It is about social and cultural differences in identity, expression and experience as a man, woman or non-binary person. Non-binary is an umbrella term describing gender identities that are not exclusively male or female. Different cultures have their own language and understandings of gender.

Gender includes the following concepts:

- **Gender identity** is about who a person feels themselves to be.
- **Gender expression** is the way a person expresses their gender. A person's gender expression may also vary depending on the context, for instance expressing different genders at work and home.
- **Gender experience** describes a person's alignment with the sex recorded for them at birth i.e. a cis experience or a trans experience.
- **Gender norms** reflect society's expectations about how women and men should behave, express themselves, and take on roles within families and society. These gender roles and how they are recognised can differ among cultures and communities.

The contemporary, Western language of trans and gender diversity evolved from the fields of sexology, psychiatry and medicine. Psychiatrists and sexologists have, since the early 20th century, tried to explain and categorise people whose gender identity or expression was different to their sex recorded at birth.⁴²

The medical understandings about transness presented several challenges. First and foremost, doctors – especially psychiatrists – were the ones defining what it meant to be trans or gender diverse. The medical understandings tended to focus entirely on the body and especially gender affirming surgery. Not all trans and gender diverse people want or need surgery. Nor do all trans and gender diverse people want medical interventions like hormone therapy. Section 3.3 on gender-affirming healthcare expands on this. The medical approach to transness also was binary. Non-binary people did not fit into definitions of transness, and all healthcare approaches and discussions focused on ideas of opposite genders.⁴³

Internationally, trans and gender diverse activists challenged the medical models. Activists gained traction in the 1990s. That was also when many activists adopted

'transgender' as an umbrella term to include anyone whose gender was different to their sex recorded at birth, regardless of medical or surgical interventions.⁴⁴

The terms 'gender queer' (or genderqueer) then 'non-binary' emerged in the early 2000s. The term non-binary gained popularity in the 2010s and has become more common.⁴⁵ Because some non-binary people associate the word 'transgender' with binaries, in the 2020s the expression 'trans and gender diverse' – used in this report – has become more common. However, as language is constantly evolving, it is likely that new terminology will emerge in the future.

The power of visibility

A common theme that many trans and gender diverse people describe reflects the saying

| **'You can't be what you can't see'.**

That is, seeing other trans and gender diverse people in the media and pop culture has given language, connection and ways to understand themselves and others 'like them'.⁴⁶ As trans non-binary Wiradjuri scholar, Professor Sandy O'Sullivan explains, 'trans people everywhere did not just appear when we had access to greater rights, but those rights made our visibility greater'.⁴⁷

There is now greater trans and gender diverse visibility than ever before. This is due to several factors in the 21st century:

- The internet and social media have provided more opportunities and accessibility for trans and gender diverse people to see and connect with others.
- There are more medical options for trans and gender diverse people to affirm their gender (for those who desire medical or surgical transitions).
- Anti-discrimination laws make it safer for trans and gender diverse people to be open. They have legal protections against being fired or being denied access to services because of their gender identity.

As the rest of this report shows, though, while there is more visibility and there are more protections and services, trans and gender diverse people continue to face many barriers to realising their full human rights in Australia.

1.4 Australian legal context

- Australia has federal, state and territory anti-discrimination laws which all include protections for trans and gender diverse people from discrimination in areas of public life. The terminology and definitions of the protected attributes differ across jurisdictions.
- Although the Australian Government has adopted much of the international human rights framework, there are significant gaps which impact on trans and gender diverse people's rights.
- Trans and gender diverse communities are experts in identifying challenges, but there are no formal, ongoing mechanisms to include them in policy-making at the federal level.

Anti-discrimination law

Australia legally recognises trans and gender diverse rights at federal, state and territory levels. This is primarily through anti-discrimination laws in each jurisdiction. Anti-discrimination laws make discrimination unlawful based on personal characteristics known as 'protected attributes'. In federal law, protected attributes are included in the *Racial Discrimination Act 1975* (Cth), *Sex Discrimination Act 1984* (Cth), *Disability Discrimination Act 1992* (Cth) and *Age Discrimination Act 2004* (Cth). Most state and territory anti-discrimination laws include the same protected attributes, along with some others not covered under federal law, such as religion, religious dress or ethno-religious origin.

Since 2013, the *Sex Discrimination Act 1984* (Cth) (SDA) has included gender identity, sexual orientation and intersex status as protected attributes. The SDA applies to the areas of 'work, accommodation, education, the provisions of goods, facilities and services, the disposal of land, the activities of clubs and the administration of Commonwealth laws and programs'.⁴⁸ The SDA contains some exemptions, which sections 4.1 and 4.2 discuss in more detail.

Australian state and territory anti-discrimination laws provide similar protections against discrimination on the

basis of sex, sex characteristics, sexual orientation and gender identity. State and territory laws also use different, additional terms to refer explicitly to trans and gender diverse communities:



Legislation (jurisdiction)	Year added to law	Terms used
<i>Discrimination Act 1991</i> (ACT)	1991/2010 ¹	Gender identity, record of a person's sex having been altered under the <i>Births, Deaths and Marriages Registration Act 1997</i> or a law of another jurisdiction that corresponds, or substantially, corresponds, to the Act , section 26 (Alteration of register)
<i>Anti-Discrimination Act 1977</i> (NSW)	1996	transgender status
<i>Anti-Discrimination Act 1992</i> (NT)	1992/2022 ²	gender identity, gender
<i>Anti-Discrimination Act 1991</i> (Qld)	2003	gender identity, sex characteristics (which refers to biological and physical features related to sex)
<i>Equal Opportunity Act 1984</i> (SA)	1984/2009 ³	gender identity
<i>Anti-Discrimination Act 1998</i> (Tas)	1998/2013 ⁴	gender identity
<i>Equal Opportunity Act 1977</i> (Vic) [replaced by <i>Equal Opportunity Act 2010</i> (Vic)]	2000	gender identity
<i>Equal Opportunity Act 1984</i> (WA)	2000	gender history

1 Originally the protected attribute was 'transsexuality'. This was updated to 'gender identity' in 2010.

2 Originally 'transsexuality' was a protected attribute under the definition of sexuality. This was updated to 'gender identity' and separated from sexuality in 2022.

3 Originally 'transsexuality' was a protected attribute under the definition of sexuality. This was updated to 'gender identity' and separated from sexuality in 2009.

4 Originally 'transsexuality' was a protected attribute under the definition of sexual orientation. This was updated to 'gender identity' and separated from sexual orientation in 2013.

Victoria also has the *Gender Equality Act 2020* (Vic), which requires the public sector, local governments and universities to take proactive steps to achieve gender equality. Section 6(8) of the Act states: ‘gender inequality may be compounded by other forms of disadvantage or discrimination that a person may experience based on Aboriginality, age, disability, ethnicity, gender identity, race, religion, sexual orientation and other attributes’.⁴⁹ This explicit reference to ‘gender identity’ means that organisations subject to the *Gender Equality Act 2020* (Vic) must consider trans and gender diverse people’s experiences as they develop programs and report on gender equality initiatives.

Despite legal protections, trans and gender diverse people in Australia continue to experience widespread discrimination,

harassment, abuse, vilification and violence. This significantly impacts on trans and gender diverse people’s mental health, social inclusion and economic stability.⁵⁰

There is currently no formal mechanism within the Australian Government to include the participation of LGBTIQ+ people – including trans and gender diverse people – to design policies and legislation that directly affect them. A review of federal government department websites found only one LGBTIQ+-specific strategy or plan (the ‘National Action Plan for the Health and Wellbeing of LGBTIQ+ People 2025–2035’).⁵¹ Some other reviews and plans note that LGBTIQ+ people are a priority population or a greater at-risk group. Yet, there are no clear strategies or mechanisms to incorporate trans and gender diverse people in policy development.



2. Being Safe

Being and feeling safe are fundamental to everyone and are important determinants for health and wellbeing. Many trans and gender diverse people must navigate unsafe environments both in person and online. Indeed, simply being trans or gender diverse can jeopardise people's safety in private and public life – including from institutions designed to protect people.

Recommendation 1:

Federal, state and territory governments should introduce consistent legislation to protect LGBTIQ+ people and their associates from vilification, incitement of hatred and threats of physical harm.

Governments should design these laws in consultation with LGBTIQ+ communities, including trans and gender diverse communities, and should include both civil prohibitions and criminal offences.

Recommendation 2:

The Australian Government Department of Social Services should require and report on LGBTIQ+ and trans and gender diverse representation in their workforce and on key advisory groups, committees and rapid reviews in key areas such as housing, domestic, sexual and family violence prevention, and community services.

Recommendation 3:

The Domestic, Family and Sexual Violence Commission (DFSVC) should establish an ongoing LGBTIQ+ working group, including trans and gender diverse representation, to:

- provide advice on initiatives to prevent and respond to gender-based violence, including implementation of the [*National Plan to End Violence Against Women and Children 2022-2032*](#)
- develop initiatives to build workforce capacity and understanding of how intersecting forms of discrimination can affect trans and gender diverse people's experiences of domestic, family and sexual violence
- strengthen relationships and cross-capacity building between the DFSVC, crisis response services and trans and gender diverse stakeholders.



Recommendation 4:

The Australian Government Attorney General's Department, along with state and territory governments, should establish LGBTIQ+ justice working groups that include trans and gender diverse representation. The working groups should protect the human rights of trans and gender diverse people by:

- a. working with criminal justice systems (police, courts and prison systems) to design and monitor policies and practices
- b. working with the trans and gender diverse community to develop methods to identify and track hate crimes, including community reporting mechanisms
- c. advancing priority areas of justice and law reform, including decriminalisation of appropriate offences, justice reinvestment and measures to address and prevent discriminatory behaviours.

Recommendation 5:

Federal, state and territory governments should provide sustainable, targeted funding to address capacity gaps in legal service provision for trans and gender diverse people, as identified in the 2025 report '[A Blueprint for Equality: Resourcing LGBTIQ+ Community Legal Centres](#)'.

Recommendation 6

Federal, state and territory governments should ensure crisis accommodation and homelessness support services offer inclusive support and are adequately funded to do so. This includes increasing sector-wide awareness, understanding and capabilities about intersecting marginalisations which affect trans and gender diverse people from diverse backgrounds.



2.1 Violence, harassment and intimidation

- Submissions highlighted that there is a growing threat of violence, harassment and intimidation directed towards trans and gender diverse people.
- Physical and sexual violence are increasing and are more prevalent amongst trans and gender diverse people when compared to cisgender peers.
- Gaps in legislation and a lack of cohesion between state and territory anti-discrimination and anti-vilification (hate speech) frameworks generate confusion for trans and gender diverse people seeking protection and redress.

Relevant human rights laws and principles

- **Article 3 of the *Universal Declaration of Human Rights***: states that ‘everyone has the right to life, liberty and security of person’.⁵²
- **Article 19 of the *Convention on the Rights of the Child***: calls on States to take appropriate legal, administrative, social and educational measures ‘to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation’.⁵³
- **Article 17 of the *International Covenant on Civil and Political Rights***: outlines a right to privacy. It states that ‘[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation’. The article also identifies a right to protection by the law against such attacks and interference.⁵⁴
- **Article 5 of the *Convention on the Elimination of All Forms of Discrimination against Women***: calls on States to take measures to eliminate social and cultural prejudices that are driven by gendered stereotypes or a belief of the inferiority or superiority of one gender over others.⁵⁵
- **Yogyakarta Principle 5 – The Right to Security of the Person**: states ‘[e]veryone, regardless of sexual orientation or gender identity, has the right to security of the person and to protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual or group’.⁵⁶
- **Yogyakarta Principle 30 – The Right to State Protection**: states ‘everyone, regardless of sexual orientation, gender identity, gender expression or sex characteristics, has the right to State protection from violence, discrimination and other harm, whether by government officials or by any individual or group’.⁵⁷

Rising violence, harassment and intimidation

A range of research reports and scholarly articles highlight the growing threats of harassment, intimidation and abuse directed to trans and gender diverse people in Australia.⁵⁸ Multiple submissions described a climate where many trans and gender diverse people live with fear and insecurity about personal safety.⁵⁹

Several submissions referenced statistics found in the joint Trans Justice Project/ Victorian Pride Lobby report 'Fuelling Hate' (2023).⁶⁰ Authors claimed this was the largest report of its kind in Australia, with over 3,000 trans and gender diverse people responding to their survey.

The report offers important insights into trans and gender diverse people's experiences of violence in Australia. Respondents reported high rates of aggressions, misgendering, violence and identity related harms.

According to the report:

- 9 in 10 participants witnessed online anti-trans and gender diverse hate
- 1 in 2 trans and gender diverse participants experienced anti-trans and gender diverse hate
- 1 in 10 trans and gender diverse participants experienced anti-trans and gender diverse violence, including physical and sexual assault
- 8 in 10 participants reported witnessing an increase in anti-trans and gender diverse sentiment since 2020.⁶¹

Submissions provided evidence of physical and sexual violence, harassment and discrimination in public spaces when simply going about their day. They also reported alarming rates of interpersonal violence in the home, including high rates of domestic, family and sexual violence. Australia's National Research Organisation for Women's Safety (ANROWS) cited research illustrating that trans women frequently face abuse:

Some interviewees described verbal abuse, including threats of sexual and physical violence, accompanied by being followed and, in some cases, physical violence (Ussher et al., 2020). Reflecting the higher rates of physical violence experienced by

trans people as compared to cisgender people (Dean et al., 2000), many women had been spat on, hit, had objects thrown at them, and been groped or touched in public spaces including on public transport (Ussher et al., 2020).⁶²

A few submissions identified public bathrooms as a site where trans and gender diverse people, particularly trans women and non-binary people, experience greater risks of harassment and violence.⁶³

Several submissions also noted that abuse and harassment frequently target cisgender allies who advocate publicly on behalf of trans and gender diverse people.⁶⁴ Research shows that public abuse and harassment also extend to individuals who are not trans or gender diverse but are perceived as gender non-conforming. They, too, face being misgendered and being asked inappropriate and intrusive questions about their bodies and gender identity.⁶⁵

A minority of submissions rejected claims of increasing violence targeting trans and gender diverse people.⁶⁶ They asserted that trans and gender diverse people do not experience violence, harassment or discrimination on a systematic level or at rates disproportionate to the general population.⁶⁷ For example, a submission from Active Watchful Waiting (AWW), an organisation that describes itself as dedicated to safeguarding the wellbeing of children in relation to gender identity policies, stated: 'AWW asserts that the narrative of widespread threats and discrimination faced by TGD individuals in Australia is disingenuous and unsupported by empirical evidence'.⁶⁸

These submissions did not provide examples or evidence to support their claims. Nor did they engage with trans and gender diverse people's lived and living experience.

Effects of violence

There is a direct correlation between exposure to violence and harassment and an adverse effect on health and wellbeing.⁶⁹ The Queensland Council for LGBTI Health shared internal data which showed '68% of participants reported having experienced hate speech or vilification and that this

affected mental health, increased stigma and discrimination and affected social and emotional wellbeing'.⁷⁰

One trans individual's submission summarised some of the effects of violence, harassment and intimidation:

We are constantly exposed to vicious and hateful rhetoric from anti-trans individuals that attempt to dehumanise us and paint us as a threat. They think nothing of inciting illegal behaviour, they deliberately create the impression that trans people are not entitled to move freely in the community as citizens. They brag online that there will be results detrimental to trans people from court cases that they are involved in. All of the threats are pointing to escalation. Violence is very close and has already appeared in specific settings.⁷¹

ANROWS provided contemporary research demonstrating that some trans and gender diverse women viewed 'passing' as a survival strategy to reduce the risk of violence. ANROWS made the important observation that freedom from violence should not depend on 'passing'.⁷²



'Passing'

'Passing' is a controversial term within trans and gender diverse communities. It refers to trans and gender diverse people's appearance and expression being perceived as indistinguishable from cisgender people. Historically, doctors expected trans people to 'pass' to grant them access to healthcare such as gender affirming surgery.⁷³

The term 'passing' is controversial because there is an implication that those who are not perceived as cisgender have 'failed' at presenting in their affirmed gender.

Family and domestic violence

The Victorian Royal Commission into Family Violence reported that trans and gender diverse people – especially trans women – experience higher rates of intimate partner violence than cisgender gay, lesbian and bisexual people.⁷⁴

Equality Australia's submission cited findings from their 2020 report 'There's No Safe Place at Home: Domestic and family violence affecting LGBTIQ+ people'. That report found that: 'trans and gender diverse people were 2.7 times more at risk of domestic and family violence than LGBTIQ+ people as a whole'.⁷⁵

Other submissions echoed this claim.⁷⁶ For example, the Australian Research Centre in Sex, Health and Society (ARCSHS) noted:

Trans and gender-diverse populations also experience specific dimensions of [family, domestic and sexual violence] that relate to the invalidation of their gender identity and chosen gender expression, as well as the weaponisation of societal prejudice against trans identities and populations.⁷⁷

Trans and gender diverse people face all the same types of family and domestic violence as cisgender people – be it physical, emotional, financial, coercive control or any other form. The Victorian Royal Commission into Family Violence also noted some distinct forms of abuse trans and gender diverse people – and many other LGBTIQ+ people – face. These include:

- threats of outing
- telling a partner they deserve the violence because of their identity
- misgendering and denying their gender identity
- withholding or threatening to withhold medication such as hormones
- threatening that they will not receive support from systems that are transphobic.⁷⁸

This Royal Commission also noted that, under the law at the time (2016), crisis accommodation and support services could lawfully refuse trans women access if they had not had gender affirming surgery. The final report noted one case in which a trans man had to resume living as a woman to access a support service.⁷⁹ This report discusses crisis accommodation in section 2.5.

Sexual violence

Submissions and research suggest that trans and gender diverse people in Australia experience high rates of sexual violence.⁸⁰ A study by the Kirby Institute at the University of New South Wales found that 53% of trans and gender diverse Australians had experienced sexual assault, rape or sexual coercion, compared to 13% of the general population. The study also indicated that ‘trans and gender diverse people report experiencing sexual assault or coercion at almost four times the rate of the general Australian population’.⁸¹

Submissions reported prisons, schools, universities and sex-on-premise venues as locations where trans and gender diverse people are at greater risk of sexual violence. Submissions identified specific factors that heightened trans and gender diverse people’s risk of sexual violence, including:

- navigating consent
- disclosing trans or gender diverse identity to sexual partners
- a culture of hyper-sexualisation and fetishisation of trans and gender diverse identities, particularly for trans women of colour
- sexual coercion through threats of ‘outing’ or financial control.⁸²

Researchers on sexual violence said that trans and gender diverse sexual assault victim-survivors also faced barriers to reporting crimes and accessing appropriate services.⁸³ Research conducted by ACON illustrated high rates of suicidal ideation, self-harm and attempted suicide among trans and gender diverse victim-survivors of sexual violence. These are substantially higher rates than those reported by cisgender participants in the study.⁸⁴

Intersecting marginalisation

Multiple submissions discussed how trans and gender diverse people with intersecting marginalisations experience different rates and types of violence, harassment and intimidation. Our Watch’s submission highlighted:

intersecting forms of systemic discrimination and oppression such as ableism and racism can increase the severity and prevalence of this [anti-trans] violence. Aboriginal and Torres Strait Islander trans and gender diverse people, including Sistergirls and Brotherboys, experience both racism and transphobia due to the context of both the racialised and patriarchal systems of heteronormativity and cisnormativity, and relationships that colonisation introduced and has sustained over time.⁸⁵

Disability and age are 2 other areas of intersecting marginalisation which compound many trans and gender diverse people’s experiences of violence. ARCSHS’ national project *Writing Themselves In 4* was the largest ever survey of LGBTIQ+ young people aged 14–21, with 6,418 valid responses. One of the report’s findings was that ‘Young TGD people with disabilities experience greater levels of verbal (52.7%), physical (15%) and sexual (31.7%) violence because of their sexuality or gender identity than those without disability or a long-term health condition’.⁸⁶

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission) published a research report on LGBTIQ+ people with disability. The report found that



rates of verbal, physical and sexual violence were even higher for trans and gender diverse people with disability from culturally and linguistically diverse, migrant, refugee and asylum seeking backgrounds.⁸⁷

ANROWS' submission noted that trans and gender diverse sex workers experience high levels of discrimination and vilification – especially trans women of colour.⁸⁸ Research also suggests that stigma, laws around sex work and discrimination are reinforcing barriers to sex workers seeking support when they experience violence.⁸⁹

Other submissions highlighted how trans and gender diverse people of faith, as well as 'queer affirming faith communities', are often the targets of harassment and abuse.⁹⁰

Trans and gender diverse people who are also Aboriginal and Torres Strait Islander people or from culturally and racially marginalised communities also face intersecting discrimination. One submission from a group of academics which focused on sexual violence noted:

Transgender women from CaLD [culturally and linguistically diverse] backgrounds are sexually harassed, misgendered, 'outed', and asked inappropriate and intrusive gender-identity questions in public (Ussher et al, 2020). This included being routinely objectified, commented on, or stared/leered at (as a sexual object and 'hostile' staring) in public. CaLD transgender women also experienced racist, sexist, whorephobic and transphobic harassment.⁹¹

Groups opposing trans and gender diverse rights

In the last decade, trans and gender diverse people have become more visible in media and public life. This visibility has led some people to question trans and gender diverse people's access to particular spaces or services.

Submissions and both Australian and international research describe organised and sometimes coordinated opposition to trans and gender diverse rights.⁹² This is distinct from questions from individuals which are made in good faith.

These different sources all describe groups and individuals who are focused on discrediting trans and gender diverse people and, as one trans person put it, 'promoting hate and vilification'.⁹³ Many groups critical of trans and gender diverse rights describe themselves as pro-family or pro-women, rather than explicitly anti-trans and gender diverse.⁹⁴ Advocates who challenge the legitimacy of trans and gender diverse rights have real and direct impacts on the human rights of trans and gender diverse people in Australia.⁹⁵

Queer and Trans Workers Against Violence – a group of LGBTIQ+ identified community workers aiming to improve outcomes of LGBTIQ+ survivors of violence in Queensland – noted a trio of groups opposing trans and gender diverse rights. Their submission stated: 'the positions of gender critical feminist groups on the lives of trans, gender diverse and non-binary people effectively align with those of anti-trans religious conservatism and right-wing fringe extremism'.⁹⁶

Academic literature also describes 3 groups which have broadly driven the critique of trans and gender diverse rights:

- traditional and religious conservatives
- right-wing populists and the far right
- gender critical feminists.

Traditional and religious conservatives

These groups oppose trans and gender diverse rights as part of what scholars call an ‘anti-gender movement’.⁹⁷ Anti-gender describes ‘the opposition to feminist and gender equality efforts – depicted as ... “gender ideology” – in a range of topics including LGBT rights, reproductive rights, sexual education, gender equality policies and gender studies, among others’.⁹⁸ The anti-gender movement emerged from conservative Christian groups and the Catholic Church in the early 1990s.⁹⁹ It now includes many conservative politicians, media and organisations.

Anti-Gender

Academic literature uses the terms anti-gender and anti-genderism to describe a broad spectrum of global political movements and campaigns united around their opposition to the concept of ‘gender’ and ‘gender ideology’. These groups often frame LGBTIQ+ rights as being threats to ‘family values’ or ‘traditional values’.¹⁰⁰

Gender ideology

‘Gender ideology’ is a disparaging term that anti-gender groups sometimes use to attack trans and gender diverse rights. The expression ‘gender ideology’ frames efforts to recognise gender diversity, gender equality and the rights of women and LGBTIQ+ people as an ideological agenda.¹⁰¹ References to ‘gender ideology’ or ‘gender identity ideology’ frame these causes as an organised conspiracy to undermine tradition and/or stereotypical, ‘fixed’ gender roles.¹⁰²

Scholars believe ‘gender ideology’ was first used in this way in the early 1990s

as a response to international policy concerning reproductive rights, gender equality and sexuality.¹⁰³ Scholars note that in these contexts the expressions ‘gender’ and ‘gender ideology’ do not have fixed meanings. Instead, “gender” functions as a container or projection screen for a range of issues and concerns ... that binds together disparate agendas and groups.”¹⁰⁴

Right-wing populists and the far right

Anti-gender ideas are also popular in right-wing populism and far right groups. Researchers have charted a dramatic increase in explicit transphobia in Australian populist and far right discourse between 2015 and 2022. This became especially pronounced after the 2017 marriage equality survey.¹⁰⁵

Researchers also note that far right actors have capitalised on opposition to trans and gender diverse rights to expand their reach and influence, similar to how they tapped into anti-vaccination sentiments during the COVID-19 pandemic.¹⁰⁶

Gender critical feminists

Gender critical feminists ‘oppose “identity” or gender-based rights. They instead argue that women are oppressed as a biological class and deserve rights based on binary and essentialist understandings of male/female sex categories’.¹⁰⁷ Essentialist means a belief in inherent characteristics that all members of a group possess by virtue of their biology. Some people use the term ‘TERF’ (trans-exclusionary radical feminism) to describe these beliefs, though its advocates tend to identify as gender critical feminists. Some actors who speak to these beliefs do not identify as part of the feminist movement.

All these actors oppose the separation of sex recorded at birth from gender identity and/or the expansion of gender categories beyond man and woman. These groups use different tactics and target different actors.¹⁰⁸ Yet, they share the goal to limit or revoke trans and gender diverse rights, ban gender-affirming healthcare and restrict trans and gender diverse participation in public life.¹⁰⁹

Drivers of increasing violence, harassment and intimidation

Our Watch is an organisation which focuses on primary prevention of violence against women and their children in Australia. Their submission noted:

Gender inequality is a key driver of violence against trans and gender diverse people. This includes rigid attitudes, behaviours, and views about gender and a belief that people must conform to heterosexuality and their sex assigned at birth (heteronormativity and cisnormativity).¹¹⁰

Organisational drivers

International research shows how groups opposed to trans and gender diverse rights sometimes spread disinformation about trans and gender diverse people.¹¹¹ One LGBTIQ+ advocacy group described these groups' end goal as being 'the total erosion of all rights that apply specifically to trans, non-binary and gender diverse people'.¹¹²

ACON – NSW's largest HIV and LGBTIQ+ health organisation – provided examples of its staff experiencing harassment from various individuals, organisations and media:

Our own staff members have been subject to doxing by anti-trans advocates, on social media, and by tabloid news outlets. These violations of our staff's human rights, including the right to privacy and dignity, have been deeply distressing for our staff and our organisation.¹¹³

The Institute for Strategic Dialogue describes itself as an independent, non-profit organisation dedicated to safeguarding human rights and reversing the rising tide of polarisation, extremism and disinformation worldwide. Their submission claimed that culture wars imported from the United States and, to a lesser extent, the United Kingdom, were influencing groups and individuals opposed to trans and gender diverse rights.¹¹⁴ Indeed, research shows that groups critiquing trans and gender diverse rights 'collaborate and engage in coalitional work across the globe'.¹¹⁵

The submission from Women's Health in the North – a women's health promotion and advocacy organisation for the northern region of Melbourne – argued that anti-gender discourses are radicalising opponents of trans and gender diverse rights. This has led to increasing transphobia and violence, including within families.¹¹⁶

Women's Health in the North's submission also noted that there is growing awareness about the overlapping drivers of gender-based violence which affect cisgender women *and* trans and gender diverse people. Nonetheless, they observed:

[T]here is limited practice guidance on how to address both these forms of violence in shared prevention initiatives, or at least make prevention of violence against women initiatives inclusive of trans women and gender diverse people.¹¹⁷

Media and public discourse

The TRANSform longitudinal study of 807 participants provides insights into the impacts of public discourse on trans and gender diverse people in Australia. Trans Health Research, a research team within the Department of Medicine at the University of Melbourne, conducted this study. Preliminary data shows that survey respondents reported exposure to multiple forms of rhetoric opposing trans and gender diverse rights:

- 72.1% to anti-trans rhetoric online multiple times each week
- 68.9% to international anti-trans legislation and violence (e.g. news reports about violent hate crimes against trans people)
- 58.2% to anti-trans rhetoric in the news media
- 37.6% to anti-trans rhetoric by Australian politicians and other high-profile individuals.

Preliminary analysis suggested that as trans and gender diverse people were increasingly exposed to rhetoric, policies and violence, this was driving higher risks of anxiety and depression, suicide planning, suicidal ideation and self-harm ideation or behaviours.¹¹⁸ International research reinforces that a rise in violence against LGBTIQ+ people occurs when there is increased negative public discourse.¹¹⁹

Many submissions drew connections between the media and the perpetuation of negative public discourse. These submissions expressed concern that the media is failing in its role to provide accurate, unbiased information. They suggested that the mainstream media engages in dehumanising discussions around the legitimacy of trans and gender diverse identities, embraces moral panic and fuels misleading and sensationalist narratives about trans and gender diverse people.¹²⁰ A submission from an individual summarised:

The majority of anti-trans [media] activity appears to be focussing on creating negative perceptions of TGD people, and in so doing, create an atmosphere of practical denial of rights whilst working on swaying popular opinion.¹²¹

Rainbow Rights Watch, an Australian not-for-profit organisation, has studied how the Australian press portrays trans and gender diverse people in Australia. Their submission identified a strong statistical correlation between ‘regressing’ reporting standards and increasing rates of prejudice, discrimination and hate crimes over an 18 month period.¹²²

Rainbow Rights Watch cited several articles published by mainstream media outlets that used derogatory and dehumanising expressions to describe trans and gender diverse people. Their submission also shared that they had identified numerous Australian press articles which groups opposed to trans and gender diverse rights used to ‘recruit and justify intimidation, violence, and harassment of transgender individuals’. They concluded that ‘our research suggests that Australian mainstream media actually plays a key role in sustaining, normalising, and perpetuating prejudicial attitudes about transgender people in Australia.’¹²³

One individual submission noted the significant role media plays in shaping perspectives because trans and gender diverse people are such a small population.¹²⁴ Most people do not have firsthand interactions with a trans or gender diverse person,⁵ and

⁵ The IPSOS LGBT+ Pride 2025 survey found only 16% of Australian participants have a friend, colleague or relative who is transgender, and only 18% have a friend, colleague or relative who is non-binary, gender non-conforming or gender-fluid. See [‘IPSOS LGBT+ Pride Report 2025’](#), June 2025: 23-24.

therefore learn about gender diversity through media portrayals.¹²⁵

Another theme in some submissions was about language which dehumanises trans and gender diverse people.¹²⁶ These submissions argued that this language is contributing to the spread of attitudes which tolerate violence. The Inner City Legal Centre stated:

Anti-trans rhetoric is usually hate speech. It uses language that attacks TGD people for who they are. Anti-TGD activists perpetuate stigma, intolerance, and violence by fuelling baseless panic response across transphobic subcultures. They cause harm direct to individuals that fall outside of the gender binary and by extension to society.¹²⁷

Our Watch’s submission noted that:

Violence against trans and gender diverse people does not occur in a vacuum, but in the context of narrow social ideas about bodies, sex, and gender which privilege certain forms. When attitudes in society devalue or dehumanise trans and gender diverse people (and other LGBTIQ+ people) perpetrators may feel they can perpetrate violence against them without risk of punishment.¹²⁸

Conspiracy theories

Several submissions also linked transphobia to the spread of conspiracy theorists such as QAnon, the Save the Children movement (as distinct from the international children’s rights non-governmental organisation)¹²⁹ and anti-vaccination movements.¹³⁰ Research reinforces these observations.¹³¹ Far right and other groups regularly promote ideas linking trans and gender diverse people to child abuse and paedophilia.¹³² The Institute for Strategic Dialogue submission stated that in recent years, and especially the previous 18 months:

Our analysts have noted this rising trend in anti-trans hate across multiple geographic regions and across a range of the groups which we monitor, including far right and populist right political movements; white nationalist groups; conspiracy and anti-vax groups; some fringe left cohorts; Islamist

groups; and state propaganda and covert influence campaigns from both Russia and China.¹³³

Drag, trans and gender diverse identities and violence

A few submissions described the active harassment campaign targeting drag events and performers across Australia.¹³⁴ Drag is not the same as being trans or gender diverse. Drag is a temporary performance of gender – often, but not always, different to the performer’s gender. Being trans or gender diverse refers to the person’s lasting, authentic gender identity.¹³⁵

Despite these differences, some opponents of trans and gender diverse rights have conflated drag with trans and gender diversity and threatened drag queens and events. A report by Tackling Hate Lab, a research collective focused on data analysis of violent ideologies and prejudice-motivated violence, noted that ‘Australian far-right groups played a key role in amplifying and coordinating anti-transgender and anti-drag narratives [during a period of increased online hate and offline mobilisation in March 2023]’.¹³⁶

The Institute for Strategic Dialogue explained:

The rhetoric and narratives targeting drag performers makes it very clear that trans people and drag performers are being conflated in the minds of those who subscribe to these narratives [that drag performers pose a physical, sexual or spiritual threat to children], meaning that threats against one group should be recognised as also being threats against the other. Drag performers may be the immediate victims, but in many ways trans people are the true target of that animosity.¹³⁷

The Australian Library and Information Association wrote:

Public libraries in Australia have been hosting drag story times, often as part of LGBTIQ+ programming, for many years without issue. However, over the last 18 months some events have been targeted with phone calls, emails, in-person complaints, social media posts and

physical protests calling for the events not to go ahead. Those targeting drag story times have made credible threats of violence and harassed library staff during physical protests. While some events have been able to proceed with local community support and counter-protests, other performances have had to be cancelled.¹³⁸

The Institute for Strategic Dialogue submission noted:

our research series found that anti-drag activists across the geographies appear to have consolidated around a common set of tactics. Most prominently, this includes protesting outside venues where drag events are being held or planned to be held. Other tactics include doxxing; threats of violence; coordinated harassment campaigns against venues, organisers and performers; and stickering and flyering or letterboxing campaigns.¹³⁹

These submissions suggested the need for greater police resourcing and support to ensure the safety of drag events.



Legal barriers to addressing violence

Even though anti-discrimination laws cover trans and gender diverse people, inequalities persist. Inconsistencies across jurisdictions, particularly regarding the scope and definition of ‘protected attributes’, leave

many trans and gender diverse Australians without adequate protections. Gaps in legislation and a lack of cohesion between anti-discrimination and anti-vilification frameworks generate confusion and barriers to justice or redress.

Anti-discrimination vs Anti-vilification

Anti-discrimination refers to protections against unfair treatment because of personal characteristics or attributes. Anti-vilification refers to protections against behaviour that encourages hatred against someone because of their personal characteristics or attributes. Vilification is often called hate speech or conduct. Some states and territories have both criminal and civil protections against vilification, some have only civil protections and some have neither.¹⁴⁰

Jurisdiction	Protected Attributes	Anti-discrimination	Anti-vilification
Commonwealth	‘Gender identity’	yes	no
ACT	‘Gender identity’ and ‘record of a person’s sex having been altered’	yes	Civil protection against public acts that ‘incite hatred toward, revulsion of, serious contempt for, or severe ridicule of a person or group of people’. ¹⁴¹ Criminal offence of serious vilification. ¹⁴²
NSW	‘being transgender or a transgender person’	partial	Civil protection against ‘transgender vilification’. ¹⁴³ Criminal offence of publicly threatening or inciting violence on basis of ‘gender identity’. ¹⁴⁴
NT	‘Gender identity’	yes	Civil protection against public acts that incite hatred, contempt or severe ridicule. ¹⁴⁵
Queensland	‘Gender Identity’	yes	Civil protection against ‘inciting hatred towards, serious contempt for, or severe ridicule of, a person or group of persons’ were added to the <i>Anti-Discrimination Act 1991</i> (Qld). ¹⁴⁶ However, the state government paused implementation on 14 March 2025. ¹⁴⁷ Criminal offence of serious vilification. ¹⁴⁸
SA	‘gender identity’	yes	no
Tasmania	‘gender identity’	yes	Civil protections against conduct which offends, humiliates, insults or ridicules another person, and inciting hatred. ¹⁴⁹

Jurisdiction	Protected Attributes	Anti-discrimination	Anti-vilification
Victoria	'Gender identity'	yes	<p>Civil protections against vilification and incitement from conduct that is hateful or seriously contemptuous of, or reviling or severely ridiculing.</p> <p>This law comes into force on 30 June 2026.¹⁵⁰</p> <p>Criminal offence for 'conduct that is likely to incite hatred against, serious contempt for, revulsion towards or severe ridicule of, another person or a group of persons'. There are also provisions criminalising 'threaten[ing] physical harm or property damage on ground of protected attribute.'¹⁵¹</p>
WA	'gender history' of a 'gender reassigned person'	partial	no

Multiple submissions identified a clear need to remedy the inconsistencies in anti-discrimination and anti-vilification regimes.¹⁵² The Justice and Equity Centre – formerly the Public Interest Advocacy Centre – is an independent, non-profit social justice law and policy organisation. It works with people and communities who are marginalised and facing disadvantage. Its submission expanded on the disparities in legal protections for trans and gender diverse people:

Only some TGD people are covered by the civil vilification provisions in the *Anti-Discrimination Act 1977* (NSW), leaving non-binary and other gender diverse people unprotected, whereas all TGD people are included for the purposes of the 'threatening or inciting violence' criminal offence in section 93Z of the *Crimes Act 1900* (NSW). The largest gap, however, exists at Commonwealth level, with no prohibitions on vilification on the basis of gender identity (or sexual orientation or intersex status/sex characteristics) in the *Sex Discrimination Act 1984* (Cth).

The absence of such prohibitions has become more notable, and problematic, given the rise in transphobic hate speech from early 2023 onwards.¹⁵³

According to Vixen, Victoria's leading peer sex worker organisation:

These inconsistent approaches [to anti-discrimination and anti-vilification] generate confusion as to whether TGD people can access these provisions (e.g. in WA, discrimination is only prohibited against 'gender reassigned' people). Many jurisdictions do not have civil anti-vilification protections (SA, WA, Vic)⁶ and criminal anti-vilification protections are often limited by high thresholds and specific circumstances ... A more uniform approach is required to ensure that TGD people in all jurisdictions can access anti-discrimination and anti-vilification protections, and that the wider community understands that discrimination and vilification against TGD people is unlawful.¹⁵⁴

6 Since Vixen sent its submission, Victoria updated its laws to introduce civil and criminal anti-vilification protections.

CASE STUDY

Posie Parker rally

Inner City Legal Centre noted a high-profile example of hate speech at a rally in Melbourne in 2023:

In March [2023], British campaigner Kellie Jay Keen-Minshull (aka. Posie Parker) held an anti-trans rally in Melbourne. Speeches at this rally implied that Trans people were (inter alia) ‘child groomers’, ‘male sexual predators’ and ‘paedophiles’. Keen-Minshull referred to gender affirmation healthcare as ‘mutilation’. Speech of this nature is dangerous. It fuels discriminatory stereotypes and works against the development of our moral capacity to understand that gender is diverse and that it sits on a spectrum ... The absence of laws to protect Trans communities reinforces power in the dominant group.¹⁵⁵

Barriers to help-seeking

The history of police abuse and harassment of LGBTIQ+ people leaves many trans and gender diverse people distrustful of law enforcement (see section 2.4). A consequence of this distrust is that trans and gender diverse people are less likely to report offences against them.¹⁵⁶ As Anti-Discrimination NSW highlighted, current statistics about hate crimes and violence likely reflect only a small proportion of crimes committed against the trans and gender diverse community.¹⁵⁷

Many trans and gender diverse people are also hesitant to seek help from other support services. Evidence shows that many frontline services that support victim-survivors of violence and abuse have been built on models which assume that the victim-survivor is heterosexual and cisgender.¹⁵⁸ Evidence shows that trans and gender diverse people are less likely to seek support – even though they remain over-represented in areas ranging from online hate speech, through to family and domestic violence and sexual

assault. As ARCSHS summarised, the ‘institutional harms sustained by trans-victim survivors in engaging with these systems is a consistent theme in Australian research’.¹⁵⁹

Australian research also shows that many trans women are wary to seek support for sexual violence due to prior negative experiences with healthcare providers or justice agencies.¹⁶⁰ As ANROWS explained in their submission, when trans and gender diverse people seek help, they often:

reported judgement, victim-blaming, a lack of acknowledgement that sexual violence had occurred and a lack of formal response in collecting DNA or other samples (Ussher et al., 2020). Intrusive comments, disbelief and attack are common throughout legal system processes (Salter et al., 2020). For trans women, their gender identity is also ‘open to public scrutiny’ throughout these processes (Ussher et al., 2020, p. 111).¹⁶¹

The Victorian Royal Commission into Family Violence recommended developing information and referral pathways for LGBTIQ+ communities and greater training for service providers. Family and domestic violence support and prevention services need the capabilities to safely support LGBTIQ+ victim-survivors, while LGBTIQ+ support services need training in family and domestic violence prevention and support.¹⁶²



2.2 Online safety

- The online world can provide information, support and connection for trans and gender diverse people.
- Trans and gender diverse people also experience significant direct and indirect abuse online. Online abuse threatens trans and gender diverse people's safety in the real world.
- Algorithms and some social media community guidelines favour the online proliferation of discourses opposed to trans and gender diverse rights and safety.
- An approach to online safety grounded in human rights must carefully balance the protection of users from harm with the preservation of fundamental rights, such as freedom of expression.

Relevant human rights laws and principles

- **Yogyakarta Principle 36 – The Right to the Enjoyment of Human Rights in Relation to Information and Communication Technologies:** describes human rights in relation to information and communication technologies.
 - Everyone is entitled to the same protection of rights online as they are offline. Everyone has the right to access and use information and communication technologies, including the internet, without violence, discrimination or other harm based on sexual orientation, gender identity, gender expression or sex characteristics. Secure digital communications, including the use of encryption, anonymity and pseudonymity tools are essential for the full realisation of human rights, in particular the rights to life, bodily and mental integrity, health, privacy, due process, freedom of opinion and expression, peaceful assembly and association.¹⁶³



Australian eSafety laws

Australia's online safety regime is complex and intersects across several key pieces of legislation on both criminal and civil matters. For example, the *Criminal Code Act 1995* (Cth) imposes criminal penalties for certain kinds of unlawful conduct online (threats to kill, cause harm, etc). The *Online Safety Act 2021* (Cth) empowers the eSafety Commissioner to investigate and remove certain types of harmful content.

Online safety laws are increasing in complexity as more types of information and conduct are regulated – from what information people are allowed to see via simple internet searches, to whether misinformation and disinformation should be removed from social media feeds.

The last few years have been characterised by an increased appetite by Government to address online harms. There is a real risk that the legal avenues to protect safety online have become obfuscated by overlapping and complicated laws. Online safety laws should continue to be developed, and they must ensure accessibility for those who need them – including trans and gender diverse people.

Rising online bullying and harassment

For trans and gender diverse people, the online world has been a means to seek and receive emotional support. However, current evidence points to rising online discrimination, harassment and violence against trans and gender diverse people.¹⁶⁴

Public reports do not indicate cyber abuse or cyberbullying reporting rates specifically targeting trans and gender diverse people. Numerous submissions, however, outlined how trans and gender diverse people experience persistent online abuse. These submissions came from individuals with lived and living experience, community organisations and research institutions. Submissions even gave examples of receiving death threats and rape threats.¹⁶⁵ This abuse caused significant distress, insomnia and other adverse effects on individuals' mental health. They also suggested that Australia's eSafety regime is not adequately protecting trans and gender diverse people from abuse.¹⁶⁶

One trans person's submission noted

that those responsible for attacking trans and gender diverse people online span: 'politicians, religious groups, single-interest "women's" groups, individuals with a high profile on social media, politically backed social media organisations, far right neo-nazi groups, and journalists in print and tv media'.¹⁶⁷ Equality Tasmania's submission noted that when the state parliament was proposing to ban conversion practices, they observed 'an increase in online hate against TGD Tasmanians and their allies (including Equality Tasmania)'.¹⁶⁸

Many submissions discussed the links between online abuse and media discourses about trans and gender diverse people.¹⁶⁹ Rainbow Rights Watch stated in their submission:

Since we expanded our media monitoring to include Australian publisher[s] social media platforms last year, we have detected more than 4,500 comments published by mainstream media outlets on their social media pages, which likely breach vilification laws in various jurisdictions of Australia. Those materials include many thousands of references to transgender individuals as 'perverts', 'disgusting', 'filthy'[,] 'fags', 'pedos', 'groomers', 'faggots', 'it', 'thing', 'delusional', 'evil', 'confused', 'creature', 'creepy', 'disordered', 'misogynists', and other similar pejoratives.¹⁷⁰

Research also shows how opponents of trans and gender diverse rights are mainstreaming transphobic discourse online through 'language of concern and care, often framed as users asking legitimate questions about safety'.¹⁷¹

Multiple submissions cited the 'Fuelling Hate' report's finding that about half of trans and gender diverse respondents experienced online anti-trans hate, and around 95% had seen online anti-trans hate in the last year.¹⁷² Research from the Office of the eSafety Commissioner (eSafety) found that among trans and gender diverse children:

- 81% had experienced cyberbullying
- 88% had seen online hate at some point
- 75% had seen online hate in the last 12 months
- 38% had experienced non-consensual tracking, monitoring or harassment, and 20% experienced it in the past 12 months.¹⁷³

Online abuse impacts on a person's right to non-discrimination, protection from violence and freedom to participate in online spaces.¹⁷⁴ Women's Health in the North summarised the experiences of online abuse well:

TGD people experience online hate in many ways, including deliberate misgendering, hate speech, doxxing, bullying, stalking, threats of physical and sexual violence, death threats, incitement to commit suicide and incitement to genocide. Routine transphobia in online spaces may be attributable to factors such as poor content moderation, mis and dis-information, and anti-trans forums organised across social media platforms.¹⁷⁵

The nature of online discrimination and abuse

Research from eSafety showed that LGBTIQ+ adults in Australia experience online hate speech at more than double the national average.¹⁷⁶ The most cited negative experience was unwanted messages.¹⁷⁷ Another study by eSafety reinforced findings about extensive online abuse and noted the challenge of lateral violence. This refers to intra-community abuse, or LGBTIQ+ people abusing each other online.¹⁷⁸

CASE STUDY

Inner City Legal Centre's submission gave this illustrative example of online abuse:

Sam** is an 18-year-old trans man who has recently left home and is living in a shelter due to transphobia in his family. A former friend of his has been deadnaming him on social media and harassing him. He has tried to engage appropriately with the other person, but the other person refuses to stop. Police advised they couldn't do anything about it and refused to take out an AVO [apprehended violence order] for his protection despite the clear transphobic harassment and intimidation. **not his real name.¹⁷⁹

A few submissions cited dating applications as a key site of online abuse.¹⁸⁰ Wider research reinforces this point. Abuse on dating applications is compounded for those with intersecting identities – for instance people from culturally and racially marginalised backgrounds or Aboriginal and Torres Strait Islander people.¹⁸¹

Scarlet Alliance – the national peak body representing sex workers, sex worker organisations and projects in Australia – reported that both cisgender and trans and gender diverse sex workers experience digital discrimination. This includes:

- shadow banning (having content partially or fully blocked without being notified)
- deplatforming (being removed from social media sites)
- being denied webhosting
- losing access to payment processors and merchant facilities.¹⁸²

Online harassment may also lead to physical violence. Several submissions reported a rise in doxxing.¹⁸³ This refers to the 'practice of publishing personal identifying information about someone on the internet, usually with malicious intent'.¹⁸⁴ Vixen described trans and gender diverse people as being 'stalked, harassed, and in some cases had members of the NSN [Australian National Socialist Network] show up in their workplaces'.¹⁸⁵ Similarly, Family Access Network, a homelessness service based in Victoria, reported having to limit advertising and even cancel LGBTIQ+ events. They feared opponents of trans and gender diverse rights would show up to harass and intimidate those in attendance.¹⁸⁶ The Victorian Pride Lobby's submission noted:

In the lead up to International Day Against Homophobia, Biphobia, Intersexism and Transphobia (IDAHOBIT), over a dozen [Victorian] councils cancelled LGBTIQ+ youth events due to organised protest threats from far-right groups. Less than a month later, the City of Wangaratta cancelled their 'Rainbow Ball', after threats from far-right groups were spotted online.¹⁸⁷

The threat of doxxing has presented trans and gender diverse people with new hurdles to protect themselves, both online and in person. Trans and gender diverse support organisations gave examples of people who have registered as silent voters in elections, constantly changed and hid social media profiles and avoided public activities for safety reasons.¹⁸⁸ Recent amendments to the *Criminal Code Act 1995* (Cth) made it illegal to dox a person on the basis of their gender identity, with a possible prison sentence of up to 7 years.¹⁸⁹ The effectiveness of this law is yet to be tested.



Social media ban

Social media platforms must now take reasonable steps to prevent children under age 16 from creating and retaining accounts.¹⁹⁰ The social media ban rightly aims to protect children from online harms by removing them from the platforms where they are most often exposed to inappropriate content.

However, many critics argue that the ban poses a disproportionate restriction on freedom of expression and the rights of children. In a joint statement, the Human Rights Commissioner and then Children's Commissioner raised concerns about the ban, saying:

While we all recognise the significant risks that social media can pose for children, an outright ban is a blunt instrument that fails to recognise that social media can also have positive benefits. For children in marginalised, remote, or vulnerable situations, social media offers a lifeline. It connects children with disability to peers, resources, and communities they may not otherwise access. It helps LGBTQIA+ youth find acceptance and solidarity. It can improve access to healthcare, particularly for children seeking mental health support. These digital spaces can educate, inform,

and remind kids who feel isolated – whether physically or emotionally – that they are not alone. Children and young people have rights to access information and to freely express themselves as they develop and form their identities. A social media ban directly threatens these rights.¹⁹¹

The Australian Government announced the social media ban after submissions to this report closed. Therefore, no submissions addressed the ban.

The eSafety research identified that trans and gender diverse young people use a variety of social media and communication platforms and many play video games online. Trans and gender diverse children and young people also tend to differ in their preferred platforms when compared to cisgender children and young people.¹⁹²

The Women's Rights Network Australia (WRNA), an advocacy group, expressed concerns about the influence of social media on children and young people. WRNA argued that social media is influencing children and young people to experience gender dysphoria.¹⁹³ This is the notion of 'social contagion' discussed in section 3.3. As that

section explains in more detail, researchers have refuted claims of ‘social contagion’. Furthermore, evidence indicates that online exposure to peer-to-peer health advice has a positive, rather than negative, impact on trans and gender diverse young people’s wellbeing.¹⁹⁴

Research consistently shows that trans and gender diverse children and young people witness or experience online hate and cyberbullying.¹⁹⁵ Yet, research also shows that many oppose censorship. One study found:

whilst young people expressed a desire not to see negative content or problematic ideas, many were wary about censoring people and content. Concerns revolved around silencing others’ voices, or as one participant explained, there was the danger that you yourself could be censored one day.¹⁹⁶

Many young people advocate instead for an ‘educative’ approach. They want to see perpetrators of hate speech and bystanders taught about sexual and gender diversity.¹⁹⁷

Research shows the benefits of social media and online information for young trans and gender diverse people. Social media represents an opportunity for LGBTIQ+ young people to ‘curate’ an identity online. They can express their gender identity or other aspects of themselves in different ways. They can also set their own degrees of anonymity or use pseudonyms.¹⁹⁸ Those young people who live in non-affirming social contexts can especially benefit from online information, peer connections and informal supports.¹⁹⁹ Researchers therefore argue that social media bans would have negative impacts on trans and gender diverse young people.²⁰⁰

The social media ban means that under-16s will no longer be able to access affirming information on the platforms they used the most. However, they will continue to be able to find these kinds of information via more traditional means such as internet searches, physical hotlines or other support services. Details about the ban are evolving and require continual and close assessment to ensure that negative and unintended impacts do not arise.

Misinformation and disinformation

In recent years there has been greater public discussion about the spread of misinformation and disinformation online. These are both forms of false information; they are related, but different.

Determining what is ‘misinformation’ and ‘disinformation’ is difficult. What one person identifies as disinformation, another might consider as a legitimate opinion. This report adopts the definitions provided by the Australian Electoral Commission’s Electoral Integrity Assurance Taskforce:

Misinformation is false information that is spread due to ignorance, or by error or mistake, without the intent to deceive.

Disinformation is knowingly false information designed to deliberately mislead and influence public opinion or obscure the truth for malicious or deceptive purposes.²⁰¹

One recent research study concluded:

contemporary transphobic disinformation is strengthened and legitimated by legacies of structural ignorance about trans people. In the face of malicious, intentionally spread disinformation about trans people and GAC [gender-affirming care], structural ignorance creates confusion in the public imagination about what it means to be trans.²⁰²

A key challenge with online misinformation and disinformation is that they *appear* credible. For example, opponents of trans and gender diverse rights may couch their arguments in language that appears scientific.²⁰³

Several submissions raised the difficulty of preventing and responding to misinformation and disinformation.²⁰⁴ For instance, the Kids Research Institute Australia (formerly the Telethon Kids Institute) stated:

We are concerned about reports of groups on social media platforms which, under the guise of supporting parents, advocate a non-affirming approach to gender diversity; encouraging parents to not affirm their child’s gender identity, and

to deny or delay any social or medical gender-affirmation. These groups are reported to stoke parents' fears and perpetuate concerning and baseless antitransgender moral panics and conspiracy theories.²⁰⁵

Social media platforms do not offer adequate support and pathways to identify and respond to misinformation and disinformation. Artificial intelligence (AI) and algorithms used by social media platforms are magnifying misinformation and disinformation. Research consistently shows that algorithms favour far right and other discourses opposed to trans and gender diverse rights.²⁰⁶ These discourses can go beyond reasonable and legitimately held opinions.

Submissions which raised concerns about AI agreed that a lack of regulation of algorithms causes harm to trans and gender diverse people and contributes to the spread of misinformation online.²⁰⁷ Women's Health in the North argued that the reach 'provided by online platforms enable individuals and groups opposed to feminism and gender equality to mobilise in mass numbers, network and organise across jurisdictions, and promote their views quickly and widely'.²⁰⁸

In addition to algorithms, the increasing use of generative AI tools, such as large language models, may also play a role in the spread of misinformation and disinformation. CoPQTI – the UNSW Community of Practice for Inclusive Research with Queer and Trans People, and People with variations of sex characteristics (Intersex People) – brings together academic staff, professional staff and research students. Their submission explained:

Internet safety is exacerbated by emerging technologies like generative AI. Large language models may manifest bias towards transgender and gender diverse people – either where mere usage of transgender and gender diverse terms is considered offensive or in the generation of content that falsely represents their communities.²⁰⁹

Inadequacy of social media policies

In the last 2 years, social media platforms have gradually been weakening anti-discrimination policies. In 2025 both X (formerly Twitter) and Meta removed protections for trans and gender diverse users.²¹⁰ For example, in January 2025 Meta removed clauses prohibiting 'the usage of slurs that are used to attack people on the basis of their protected characteristics' from its Hateful Content Community Standards Policy. Meta also introduced language to allow for 'allegations of mental illness or abnormality when based on gender or sexual orientation'.²¹¹ The President and CEO of GLAAD – a US based non-profit LGBTIQ+ advocacy organisation – responded to Meta's rollback:

Without these necessary hate speech and other policies, Meta is giving the green light for people to target LGBTQ people, women, immigrants, and other marginalized groups with violence, vitriol, and dehumanizing narratives. With these changes, Meta is continuing to normalize anti-LGBTQ hatred for profit.²¹²

Social media platforms often have tools for users to report offensive, hateful or illegal material. However, some users are deploying reporting tools against any trans and gender diverse content. This is known as 'user-generated warfare'.²¹³ Research has found that 'sometimes queer people are harassed and there is mass reporting of their content, as a result of prejudice and discrimination, which might get them banned'.²¹⁴ In other words, rather than social media platforms banning the harassers, often they ban the victims.

Social media platform policies also impact on the online experiences of trans and gender diverse people. For example, research with young LGBTIQ+ Australians found 'user accounts had been targeted and videos were taken down, even though no community guidelines had seemingly been broken'.²¹⁵

The issues around misinformation, disinformation, AI, algorithms and hateful content all point to larger challenges around online safety. Although the content is online, the effects are widespread for trans and gender diverse people.

2.3 Forcibly displaced people

- Internationally, trans and gender diverse people are facing increasing persecution and other serious harms. This is driving more forcibly displaced people to seek asylum or migrate, including to Australia.
- In Australia, trans and gender diverse forcibly displaced people experience insecure visa status, an immigration system ill-equipped to process and handle their asylum claims and inadequate settlement services.
- There are inadequate guidelines and procedures to ensure the safety and gender-appropriate facilities for trans and gender diverse people in immigration detention.

Relevant human rights laws and principles

- **Article 1A(2) of the 1951 Refugee Convention:** defines a refugee as a person who 'owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country'.²¹⁶
- **United Nations High Commissioner for Refugees (UNHCR) Guidelines on International Protection No. 9:** outlines claims to refugee status based on sexual orientation and/or gender identity. The guidelines relate to Article 1A(2) of the 1951 Refugee Convention and its 1967 Protocol relating to the Status of Refugees.²¹⁷
- **Yogyakarta Principle 23 – right to seek asylum:** states that everyone has the right to seek and enjoy asylum from persecution in other countries, including persecution based on sexual orientation or gender identity. A State may not remove, expel or extradite a person to any State where that person may – because of their sexual orientation or gender identity – face a well-founded fear of torture, persecution, or any other form of cruel, inhuman or degrading treatment or punishment.²¹⁸
- **Yogyakarta Principle 31 – right to legal recognition:** states that everyone has the right to legal recognition without reference to, or requiring assignment or disclosure of, sex, gender, sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to obtain identity documents, including passports and birth certificates, regardless of sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to change gender information in documents which include gender information.²¹⁹

Displacement drivers

Several submissions focused on the challenges facing trans and gender diverse people from asylum seeker and refugee backgrounds – collectively known as forcibly displaced people.²²⁰ According to the UNHCR, the number of LGBTIQ+ refugees and asylum seekers has risen in recent decades.²²¹ The UNHCR notes that LGBTIQ+ people:

- may flee their home country as a direct result of their sexual orientation, gender identity, gender expression or sex characteristics
- are at heightened risk of exclusion, exploitation, violence and abuse – even in countries where they seek asylum
- may struggle to find safe accommodation, appropriate healthcare, education, work and other essential services.²²²

The UNHCR emergency handbook outlines LGBTIQ+ issues and UNHCR best practice for responding to displaced trans and gender diverse people. It explains:

Transgender persons are often severely marginalized and subject to violence. They are often subject to sexual abuse by state as well as non-state actors. Frequently excluded from education and access to housing and employment, they may resort to the sale and exchange of sex. They often lack access to medical services that are much needed.²²³

Trans and gender diverse people also experience greater limitations on their international mobility because many countries criminalise their gender identity.²²⁴ This can create significant barriers to obtaining official government documents such as passports and, therefore, obtaining a visa to travel elsewhere.

A systematic review of studies into LGBTIQ+ asylum seekers' mental health found that they 'experience multiple traumatic events across their lifespan, ranging from family rejection and harassment to conversion practices, persecution and violence'.²²⁵ Housing, employment, social integration and the asylum determination process are all areas where, globally, LGBTIQ+ refugees and asylum seekers face intersecting challenges.²²⁶

Two submissions noted that because of safety concerns, forcibly displaced trans and gender diverse people are often forced to conceal their gender or 'go back into the closet'.²²⁷ This may happen in their host country, while in transit or while accessing services.

Challenges with the Australian immigration system

Immigration systems are designed with the assumption that migrants are cisgender, heterosexual and fit into a binary of men or women. LGBTIQ+ forcibly displaced people do not easily fit into these systems. Therefore, they do not achieve equitable settlement outcomes compared to their non-LGBTIQ+ counterparts.²²⁸

International research consistently highlights LGBTIQ+ people's vulnerability within asylum systems. LGBTIQ+ applicants for humanitarian protection are expected to 'prove' their sexual orientation or gender identity, even though they may have hidden this in their country of origin for safety reasons. Indeed, LGBTIQ+ humanitarian applicants often cannot provide 'evidence' that satisfies immigration officials.²²⁹



CASE STUDY

The Refugee Advice & Casework Service (RACS) submission provided this example:

Trudi* is a transgender woman from a south-east Asian country who fled to Australia to pursue safe access to gender affirming health care and protection. RACS assisted Trudi to lodge a Protection Visa application with a detailed statement of her protection claims. Without offering an interview or providing an opportunity to respond to any concerns about the application in writing, the Department [of Home Affairs] refused to grant Trudi a protection visa. The basis for this refusal was that Trudi provided no evidence of past harm on the basis of her transgender identity in her country of origin. However, this assessment failed to consider the fact that when Trudi was in her country of origin, she was forced to present as a cisgender male to avoid harm. Without an interview and without this concern being raised for comment, Trudi was unable to articulate in her own words how her lack of past harm does not negate her risk of future harm given she has now been able to socially and medically transition in Australia.²³⁰

One Australian study explored sexuality-based immigration cases in the Administrative Appeals Tribunal. The author found that, historically, immigration officials often disbelieved applicants' sexuality. The practice of 'disbelieving' likely extended to asylum claims around gender identity. The research found that since the publication of guidelines around assessing 'sexual and gender minorities' asylum claims in 2016, there have been marked improvements in case outcomes.²³¹

Despite these improvements, submissions highlighted ongoing challenges confronting trans and gender diverse people who apply for asylum in Australia. For instance, they

identified the pathologisation of trans identities and applicants having to navigate invasive questioning.²³² According to RACS:

[The] refugee status determination process is particularly sensitive and can be traumatic for TGD people who face barriers to justice due to a lack of training for decision-makers, intrusive questioning at interview, and difficulties using interpreters.²³³

Equality Australia provided evidence of other challenges confronting trans and gender diverse asylum seekers:

Our 2019 review of 528 refugee decisions between June 2007 to 2018 found 13 tribunal decisions considering gender identity protections claims. While 62% of claimants were successful in their applications, we found a woeful lack of understanding of TGD diversity among tribunal members, including evidence of misgendering and a lack of understanding of trans human rights issues which led to highly questionable legal reasoning.²³⁴

The Australian Department of Home Affairs guidelines on assessing sexuality or gender identity-related asylum claims are only publicly available because of a freedom of information request. They are accessible online via the Department's freedom of information disclosure log (along with all other freedom of information disclosures), rather than on the main public-facing sections of the Department's website.²³⁵

Even though officials have improved their assessment processes, there is a heavy burden placed on trans and gender diverse asylum seekers. As researchers observe from multiple international studies:

Due to fear, internalized shame, or cultural and linguistic differences, LGBTQI+ asylum seekers might be unable or unwilling to speak up or describe their gender or sexuality with the same western terminology used by the immigration system of host countries (Borges, 2019). Asylum seekers are more invisible due to the binary discourse of gender inherent in legal systems (Van der Pijl et al., 2018).²³⁶

Hardships facing forcibly displaced people

International research on LGBTIQ+ forcibly displaced people identified common experiences, including:

- previous traumatic experiences
- insecure visa status and delays in processing protection claims
- financial insecurity
- insecure housing
- minority stress as LGBTIQ+ people
- minority stress being from culturally and racially marginalised backgrounds
- ongoing experiences of discrimination affecting their mental health.²³⁷

Minority stress

Minority stress is a way to understand the many co-occurring mental health impacts that marginalised and stigmatised minority groups experience. Minority stress describes the discrepancy that occurs between the health and wellbeing outcomes when compared to their less or non-stigmatised peers. Relationships Australia's submission explained:

Minority stress refers to the experience of heightened, ongoing psychological distress and social pressure experienced by members of stigmatised, minority populations. Such groups face additional life stressors compared to the general population, related to experiences of prejudice, discrimination and harassment, including violence and abuse.²³⁸

These findings resonate among forcibly displaced trans and gender diverse people living in Australia. In 2023, the Forcibly Displaced People Network, Australia's only national LGBTIQ+ refugee-led organisation, published "Inhabiting Two Worlds at Once": Report into LGBTIQ+ Settlement Outcomes'.²³⁹ The report drew on a survey completed online by 82 LGBTIQ+ forcibly

displaced people resident in Australia. One limitation of the survey was that it was only published in English. The Forcibly Displaced People Network disseminated the survey online and in person through community organisations, academics and at events. The report notes that respondents did not answer all questions.

Still, as the only specific study into LGBTIQ+ forcibly displaced people in Australia, 'Inhabiting Two Worlds at Once' provides important insights. Among the findings were:

- 27% of the respondents identified as trans and gender diverse
- 95% of trans and gender diverse respondents experienced sexual and gender-based violence prior to coming to Australia (compared to 75% of all LGBTIQ+ respondents)
- 75% of trans and gender diverse respondents experienced sexual and gender-based violence in Australia (compared to approximately 60% of all respondents)
- trans and gender diverse respondents self-reported their mental health as 48 out of 100 (compared to 56 out of 100 of all respondents).²⁴⁰

The report also found that trans and gender diverse refugees and asylum seekers in Australia disproportionately experience homelessness. They find it hard to get stable work because of short-term visas and because regulatory bodies often will not recognise their overseas qualifications or past work experience. The report also found that Australian settlement support services were inadequate and failed to meet the needs of diverse communities.²⁴¹

Settlement Services

Neither mainstream settlement services nor trans and gender diverse/LGBTIQ+ support services are meeting the needs of trans and gender diverse forcibly displaced people. International research suggests that immigration, asylum, support and health systems need better training for staff about LGBTIQ+ clients' needs and experiences. They need to be affirming, culturally sensitive, intersectionally aware and conscious



of avoiding stereotypes and imposing expectations on LGBTIQ+ clients.²⁴²

Different visa statuses create significant barriers for LGBTIQ+ forcibly displaced people. For instance, many cannot access essential services such as Centrelink, the National Disability Insurance Scheme (NDIS) and Medicare. There is a critical shortage of trained interpreters who are competent in LGBTIQ+ inclusive communication. Additionally, there is a lack of relevant and translated settlement materials that reflect the experiences and needs of LGBTIQ+ individuals.²⁴³

A couple of submissions also emphasised the absence of competencies across settlement support services. They noted that support services lack inclusion in their design and do not consider intersecting marginalisations.²⁴⁴

For example, the National Ethnic Disability Alliance cited findings from the Disability Royal Commission. The Disability Royal Commission found that governments inadequately protected LGBTIQ+ young people with disability from culturally and linguistically diverse, migrant, multicultural and refugee or asylum seeker backgrounds. Furthermore, service providers lacked appropriate knowledge to meet those clients' needs.²⁴⁵

Immigration detention

International research shows that in immigration detention, LGBTIQ+ refugees and asylum seekers often experience 'discrimination from staff members or hostile attitudes and bullying from fellow asylum seekers (Aygün, 2019; Zappulla, 2018), especially when their gender expression does

not conform to social and cultural norms of gender binary'.²⁴⁶

Australia's immigration detention regime, and the serious human rights concerns it raises, may exacerbate risks for trans and gender diverse people in detention.²⁴⁷ Australia has a long-standing policy of mandatory detention for all people arriving or remaining in Australia without a valid visa, regardless of risk.²⁴⁸ This includes children, refugees and asylum seekers. Submissions highlighted Australia's poor track record in upholding the rights of refugees and asylum seekers.²⁴⁹ As a result, it is difficult to disentangle trans and gender diverse experiences from the broader human rights violations suffered by migrants in Australia while in immigration detention.

The National Ethnic Disability Alliance (NEDA) submission emphasised the negative experiences that trans and gender diverse individuals with disability suffer in immigration detention. They reported:

- discrimination
- lack of safeguarding regulation
- chronic misgendering, which contributes to poor mental health outcomes and significant trauma
- identity-based stigma, discrimination and violence at intersections of gender diversity and disability
- poor access to healthcare, which leads to psychological, social and physical injury.²⁵⁰

In December 2024, the Commission published [*'Not Just An Afterthought': The Experience of Women in Immigration Detention*](#). The report found that in an immigration detention system overwhelmingly focused on men, women – including LGBTIQ+ women – are too often an afterthought. The report identified serious concerns for their safety, health and welfare.

A section of the report on trans women in immigration detention drew on the principles and risk factors in state detention and prison systems. For instance, trans women placed in men's prisons face higher risks of assault, sexual assault and self-harm (see section 2.4).

Submissions expressed similar concerns about trans and gender diverse people's safety in immigration detention.²⁵¹ One human rights law firm observed: 'Trans

women in particular become the target of bullying, violence and sexual assault, as they are housed in men's prisons or immigration detention units'.²⁵²

The media has reported on the experiences of trans women in immigration detention. One ABC report said that until recently, several trans women were held in the men's compound. Even when they were transferred to the women's compound, they were kept in a segregated area. They also reported that security officers persistently monitored and harassed them.²⁵³

Not Just An Afterthought noted that, at the time, the Department of Home Affairs had no guidelines on the management of trans and gender diverse people in detention. It made 4 recommendations relating to trans women in detention:

- provide all staff working in immigration detention centres where women are detained with initial and ongoing training on the supervision of women and gender sensitivity, including gender-specific needs, women's health and safeguarding women, including LGBTIQ+ women, from violence, abuse and sexual harassment
- develop policy and procedural guidance on the accommodation, welfare, security and management of trans and gender diverse people in detention, drawing on international human rights principles
- ensure that any protective measures for trans and gender diverse people in detention do not impose more restrictive conditions or reduced opportunities than for others in detention
- consider alternatives to closed immigration detention where the safety of a trans and gender diverse person cannot be guaranteed.²⁵⁴

The Department of Home Affairs agreed with the first 3 recommendations and noted the fourth. The Department stated that it already considers alternatives to closed detention under existing arrangements.²⁵⁵

2.4 Justice, policing and imprisonment

- Many trans and gender diverse people have cited Australian Police forces as distrusted institutions.
- Trans and gender diverse people report dehumanising, discriminatory and violent practices from administrators, managers and other workers across police, courts and prison and detention systems.
- Imprisoned trans and gender diverse people are likely to experience physical, sexual and psychological abuse. Prisons also pose challenges because they are segregated by gender and limit access to gender-affirming healthcare.
- Best practice around justice, policing and imprisonment emphasises decriminalisation and justice reinvestment.

Relevant human rights laws and principles

- ***International Covenant on Civil and Political Rights:***
 - **Article 7:** ‘No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.’
 - **Article 9(1):** ‘Everyone has the right to liberty and security of person. No one shall be subject to arbitrary arrest or detention.’
 - **Article 10:** ‘All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.’
 - **Article 14:** ‘All persons shall be equal before the courts and tribunals.’
 - **Article 26:** ‘All persons are equal before the law and are entitled without any discrimination to the equal protection of the law.’²⁵⁶
- ***Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:***
 - **Article 11:** ‘Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.’
 - **Article 16:** ‘Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.’²⁵⁷

- **United Nations Standard Minimum Rules for the Administration of Juvenile Justice ('The Beijing Rules'), ratified in November 1985²⁵⁸**
- **United Nations Standard Minimum Rules for the Treatment of Prisoners ('The Nelson Mandela Rules'), ratified in December 2015²⁵⁹**
- **Yogyakarta Principles** also outline relevant protections, namely:
 - Principle 7 - Right to Freedom from Arbitrary Deprivation of Liberty
 - Principle 8 - Right to a Fair Trial
 - Principle 9 - Right to Treatment with Humanity while in Detention
 - Principle 10 - Right to Freedom from Torture and Cruel, Inhuman, or Degrading Treatment or Punishment
 - Principle 30 - Right to State Protection
 - Principle 33 - Right to Freedom from Criminalisation and Sanction on the Basis of Sexual Orientation, Gender Identity, Gender Expression, or Sex Characteristics.²⁶⁰



Criminal justice systems

Criminal justice systems are the agencies involved in investigating, prosecuting and managing criminal matters. These include police, courts and prison and detention systems. Prison and detention systems are gendered, meaning they treat men and women differently in matters such as facilities and uniforms. These criminal justice systems have responsibilities to maintain the health and wellbeing of people who are arrested, prosecuted and incarcerated.

Criminal justice systems come under different federal, state and territory jurisdictions. In the late 1990s, jurisdictions began adopting guidelines or policies relating to trans and gender diverse people. These guidelines addressed matters like police body searches, accommodation in prisons and access to healthcare. Across jurisdictions the policies are inconsistent and at times adopt practices that are not evidence-based.²⁶¹

International research has documented how trans and gender diverse people regularly experience dehumanising, discriminatory and violent practices from workers, administrators, managers, and others across criminal justice systems.²⁶² Australian research on trans and gender diverse people in criminal justice systems shows similar themes.²⁶³ Historical research shows that criminal justice systems caused significant harm to trans and gender diverse people in Australia across the 20th and 21st centuries.²⁶⁴ Other studies have documented ways police have targeted young people with diverse gender expressions, identities and sexualities.²⁶⁵

As noted in section 3.1, a lot of Australian data does not capture trans and gender diverse people. Victoria Legal Aid's submission noted that the lack of data means:

We see specific limitations in legislation, consultation processes and systems, including insufficient data recording practices of key agencies such as Victoria Police, Corrections Victoria, Youth Justice and the Adult Parole Board. This presents barriers to people reporting their gender identity and leads to the erasure of trans and gender diverse people in data and other reports.²⁶⁶

Research and submissions also show great distrust in criminal justice systems. ANROWS' report 'Developing LGBTQ programs for perpetrators and victims/survivors of domestic and family violence' includes these words from a queer and trans woman:

If [you and your partner are] both queer or you're both trans, you're both trying to survive in a world that wants to kill you, basically. And by exposing your partner, even if they're being abusive or violent ... exposing them to interactions with police or the criminal legal system, or prison, it could, ... be the death of them. And it's far worse than the sort of abuse or violence that is being done within that relationship.²⁶⁷

Several submissions stated that trans and gender diverse people face discrimination and mistreatment by police, courts and in prison environments.²⁶⁸

Submissions also stated that trans and gender diverse people face barriers to accessing legal services that can support them, and that legal services for LGBTIQ+ communities are critically underfunded.²⁶⁹

The National Access to Justice Partnership (NAJP) is a 5-year agreement between Commonwealth and state and territory governments. It aims for the governments to work in partnership to enhance access to justice for people experiencing vulnerability and financial disadvantage. LGBTIQ+ people are a national priority client group under the NAJP.²⁷⁰ However, NAJP performance indicators do not require reporting on data relating to several priority client groups, including:

- LGBTIQ+ people
- people experiencing homelessness
- people in custody
- vulnerable migrants, asylum seekers and refugees
- people in outer regional and remote areas.²⁷¹

In August 2025, Consulting & Implementation Services (CIS) and Inner City Legal Centre launched 'A Blueprint for Equality: Resourcing LGBTIQ+ Community Legal Centres'. This report includes an assessment of the critical

gaps in legal service provision for LGBTIQ+ people. It also outlines what changes are required to ensure LGBTIQ+ people can access legal support.²⁷² At the time of this report, there has been no formal commitment to resource specialist LGBTIQ+ legal services.

Police

There is almost no Australian data about the number of trans and gender diverse people arrested, charged and detained by police, processed through the courts and subjected to periods of detention.²⁷³ This is, in part, because of state and territory differences around recognition of gender (see section 3.4) and the management of police. There is significant international evidence demonstrating that police and other securitised law enforcement (such as private security) perpetrate harms and violence against trans and gender diverse people.²⁷⁴

In Australia, trans and gender diverse people often report disrespectful treatment, misgendering and feeling uncomfortable when disclosing their trans or gender diverse identity to police.²⁷⁵ Earlier research reported examples of police failing to protect trans and gender diverse people from public harassment, and police perpetrating public harassment and discrimination.²⁷⁶ In a report prepared for the NSW Special Commission of Inquiry into LGBTIQ Hate Crimes, a trans participant shared:

Back in my community, one of our Sistersgirls, the police took a fancy to her, and because she wouldn't give him sex, he pulled a gun on her. Anyway ... we took him to Court, but he never got dismissed; he got moved.²⁷⁷

Trans and gender diverse people also report significant mistrust and perceive police as lacking knowledge about gender diversity.²⁷⁸ For instance, Transgender Victoria submitted to a Victorian coronial inquest into the death of a trans woman: 'Police relations with the broader LGBTIQ+ community and the TGD community in particular have deteriorated'.²⁷⁹

Submissions reinforced these findings and suggested that many trans and gender diverse people did not trust police. This

reduces trans and gender diverse people's faith in the justice system, making them less likely to report hate crimes.²⁸⁰ The Gender Centre – Australia's longest-running support and advocacy service for trans and gender diverse people – said in its submission: 'the long history of marginalisation, stigmatisation and abuse of people makes TGD community members cynical that government or police care about them'.²⁸¹ The Justice and Equity Centre gave this summative statement:

Our clients have experienced the criminal legal process as 'offenders' and 'prisoners'. Our TGD clients have had hurtful, humiliating and distressing interactions with police officers in NSW. Some clients have experienced violent physical abuse; other clients have been emotionally abused (e.g. called hurtful names, presumed to be mentally unwell, threatened with the prospect of sexual assault in prison) and deliberately misgendered (where clients have requested police use their legal/preferred name and gender identity, and police have expressly refused).²⁸²



Several submissions, including those drawing on lived and living experience, stated that police have failed to prevent or respond to crimes committed against trans and gender diverse people.²⁸³ Anti-Discrimination NSW noted:

During the LGBTIQ+ Safety Summit in February 2024 hosted by the City of Sydney in collaboration with ACON, participants highlighted the pain and anguish they felt when facing homophobia, transphobia and discrimination in their communities. They spoke of increasing levels of abuse and threatening behaviour, and the failure of police to intervene and respond to their calls for help. This contributes toward a lack of trust in the police to protect LGBTIQ+ communities.²⁸⁴

CASE STUDY

Isabel** lives in private community housing and is a transgender woman with disabilities including balance and co-ordination issues and motor function issues in one arm. Her neighbour has a history of verbal abuse towards her, including transphobic comments. He throws things on her car regularly. She is frightened of him and made a complaint to police. Police told her they were not able to take out an AVO for her protection. She was informed to take one out herself. Police are still required to serve private AVOs however at the first court date one month after the application, they had still not served the application on the other party. A private application also means there is no form of protection for Isabel until the court makes an interim or final decision. She does not want to leave the area as she has stable employment and is valued and feels belonging in the community – as an older trans woman that can be incredibly difficult to achieve.

**Pseudonym used²⁸⁵

(Inner City Legal Centre submission)

Police agencies sometimes point to training programs designed to educate their officers about trans and gender diversity. However, researchers also found that police often disengage or behave disrespectfully during these training sessions.²⁸⁶ The NSW Special Commission of Inquiry into LGBTIQ Hate Crimes recommended additional mandatory training concerning engagement with LGBTIQ+ communities. This should include training on the role of conscious and unconscious bias.²⁸⁷

Trans and gender diverse people have reported inadequacies in police LGBTIQ+ Liaison Officer programs (often called LLOs or GLLOs). LLOs are meant to be contact points within the police for LGBTIQ+ people. They work with communities and advocate within police forces. Some challenges trans and gender diverse people have identified with LLO programs are:

- There are no published lists of who LLOs are, where they are stationed or how to contact them.
- Many LLOs are believed to be concentrated in inner city areas
- LLOs tend to be better versed in gay and lesbian matters and less skilled at supporting trans and gender diverse people.
- It is not mandatory for police dealing with matters involving trans and gender people to contact LLOs.²⁸⁸

Submissions acknowledged that there has been some progress in police-community relations. Still, submissions were critical of police attitudes towards trans and gender diverse communities.²⁸⁹ Furthermore, high-profile incidents of transphobia within police forces have led many trans and gender diverse people to be sceptical about reform within the ranks.

CASE STUDY

Dani Laidley

In May 2020, the *Herald Sun* published photos of former North Melbourne Kangaroos player and coach Danielle (Dani) Laidley while in police custody. A police constable shared photos of Laidley around social networks along with transphobic commentary. A constable then leaked the photos to the media – outing Laidley as trans.

In 2021, 2 Victoria Police officers faced charges including accessing and disclosing police information and wilful misconduct in public office. A magistrate dismissed the charges in March 2022. Laidley also lodged a civil suit in Victoria's Supreme Court, claiming Victoria Police were liable for the officers' actions. Victoria Police settled this suit, and the Chief Commissioner of Police publicly acknowledged that what happened 'was a breach of Dani's human rights, it's inappropriate conduct, it's not acceptable'.²⁹⁰

Courts

Research has found some court experiences to be discriminatory and harmful for trans and gender diverse people. Trans and gender diverse people report being subjected to misgendering and other forms of humiliation and discrimination. Submissions also raised this concern.²⁹¹ Court forms in some jurisdictions only enable a person to identify as female or male, and they prevent sex or gender from being self-identified.²⁹²

Research has found that court judgments and coronial inquests also frequently deadname trans and gender diverse people. These legal proceedings use language widely considered as slurs and sometimes unnecessarily make references to the person's genitalia.²⁹³ A report on trans and gender diverse people's experiences of hate crimes explained: 'even if a legal name needs to be used in the reference to the file, the report can note their affirmed name and pronouns and use that language throughout'.²⁹⁴ Research has found instances when Australian judges implemented this practice: using a trans person's preferred pronouns, name and terms.²⁹⁵



Deadname

This is a common expression for someone's name recorded at birth. It is generally considered harmful to use someone's deadname without their permission, even when referring to their past.²⁹⁶ Submissions noted that trans and gender diverse people are regularly deadnamed in various contexts. Some examples included healthcare,²⁹⁷ courts and the legal system,²⁹⁸ and educational institutions.²⁹⁹

One legal academic proposes several reforms:

- Criminal court forms across all jurisdictions should be reviewed to determine whether requests for identification of sex, gender or pronouns is necessary. When it is necessary, forms should allow for self-identification.
- Court staff and judicial officers should receive specialised training related to gendered terminology and respectful language.
- Courts should implement appropriate supports for trans and gender diverse people as they progress through criminal justice systems.³⁰⁰

Custodial and prison environments

Australia has limited research on the prevalence of trans and gender diverse people entering detention and prison environments. As the Commission noted in the 2015 report 'Resilient Individuals', 'it has been widely recognised that transgender people are more likely than the general population to experience assault and self-harm, and that these vulnerabilities are magnified when transgender persons are incarcerated'.³⁰¹

International research shows trans and gender diverse people, especially those who experience racism, are at increased risk of imprisonment. Research suggests this is partly driven by 'disproportionate experiences of discrimination, violence and victimisation ... across their [trans and gender diverse people's] lifespan'.³⁰²

Experiences of family rejection, violence and discrimination can expose trans and gender

diverse people to precarious employment, financial instability, housing insecurity and inability to access healthcare. This in turn can lead to criminalised behaviours such as sex work, theft and substance misuse. These behaviours can be a response to the impacts of victimisation and minority stress. As noted above, the ways that police interact with trans and gender diverse people can also heighten their risk of coming into contact with the criminal justice system and imprisonment.³⁰³

Guidelines

Anti-discrimination laws can apply in detention and prison settings, particularly in the provision of facilities and services to inmates.³⁰⁴ Guidelines around access to healthcare and identity recognition – covered in sections 3.2 and 3.4 – also apply to detention and prison settings.

The Corrective Services Administrators' Council issues the 'Guiding Principles for Corrections in Australia'. These are principles which state and territory corrections services should follow when designing their policies, practices and performance standards. The principles list the following points specific to trans and gender diverse people:

- 1.16: Female prisoners are placed separately to male prisoners, and due regard is had to the unique needs of transgender and gender diverse prisoners when making placement decisions.
- 1.3.14: Alternative screening methods, such as scans, are used in preference to strip searches. Strip searches are ... performed by a staff member of the same gender as the person searched (or nominated by a prisoner who is transgender, gender diverse or intersex) wherever possible.
- 1.3.15: Staff performing strip searches consider and make any reasonable modifications to account for a prisoner's background, gender identity, religion, cultural identity, or disability.
- 2.3.8: The placement assessment of transgender, gender diverse and intersex prisoners includes comprehensive and holistic consideration of their individual safety and wellbeing, and takes into account their stated preferences.

- 3.1.17: Health care provided to LGBTIQ+ people in custody is appropriate to their individual needs, with due consideration to the unique needs of transgender and gender diverse prisoners.³⁰⁵

Most states and territories have guidelines which follow these principles. However, there is little monitoring around compliance with the principles, or with existing guidelines and policy.

Prison facilities

Most guidelines suggest that trans and gender diverse people should usually be accommodated in prisons which align with their affirmed gender. One notable exception to this is the Northern Territory. In October 2025, the Chief Minister announced plans to change their guidelines and house prisoners according to sex recorded at birth.³⁰⁶

Debates about trans women and non-binary people in prisons

In October 2025, media reports sparked public debates about trans women and non-binary people in women's prisons. The reports suggested that trans women would pose a threat to cisgender women. The Chief Minister of the Northern Territory then announced that trans women would no longer be housed in women's prisons. The Northern Territory Anti-Discrimination Commissioner released a statement advising that banning trans women and non-binary people from women's prisons may be unlawful under the *Anti-Discrimination Act 1992* (NT). The Commissioner also emphasised:

Public statements suggesting that trans women are a safety threat to others in custody are transmisogynistic and contrary to the evidence. National and international data show that trans women are at a far higher risk of sexual assault, harassment and self-harm when housed in men's units.³⁰⁷

Research from both Australia and the US shows that trans and gender diverse prisoners have varied preferences for where they want to be housed. Some factors that influence their preferences include if they have previously been in prison, the length of their sentence, their sexual orientation and safety.³⁰⁸ Some Australian authorities have given trans and gender diverse prisoners the opportunity to express their preference, but others have not.³⁰⁹

State and territory guidelines emphasise assessing trans and gender diverse people's whole situation and preferences. The policies give prison secretaries and staff a great deal of discretion. They can consider factors like the prisoner's safety, the person's preferred prison and the gender on their legal documentation. They also consider the risk the prisoner may pose to the order, management and safety and wellbeing of all prisoners.

Research found that in practice, these discretionary measures meant that trans and gender diverse people could be assigned to either men or women's prisons regardless of their preference and affirmed gender.³¹⁰ Research identified that rather than considering a range of relevant factors – such as safety, self-identification and their individual circumstances – prison authorities often only considered a prisoner's sex recorded at birth.³¹¹ This also meant prisoners may be subjected to invasive examinations.³¹²

Several submissions expressed concerns about imprisoned trans and gender diverse people placed in facilities that do not align with their affirmed gender or preference. The submissions echoed research showing that this practice increases trans and gender diverse people's risk of violence, including physical, sexual and psychological abuse.³¹³ As Victoria Legal Aid highlighted, this is particularly risky for trans women and non-binary people placed in men's facilities.³¹⁴

Solitary confinement

Trans and gender diverse people often face extended periods in solitary confinement, or 'protective custody'.³¹⁵ Several submissions noted that prison authorities justify that this is for their 'protection'.³¹⁶ Victoria Legal Aid explained:



Trans women incarcerated in women’s prisons are disproportionately subject to standard long term solitary confinement, irrespective of charges, history, hormone access or gender-affirming surgery. This ranges from six weeks to indefinite solitary confinement. In men’s prisons, trans women are acutely unsafe and are often held in solitary confinement ‘for their protection’.³¹⁷

One submission from a group that works with trans and gender diverse prisoners gave the example of a trans woman subjected to solitary confinement for 2 years and 11 months. The submission described solitary confinement this way:

Individuals are locked in cells approximately 6 x 4 metres for 23 hours a day with minimal access to fresh air or social interaction. It is not uncommon for individuals to be unable to leave their cell at all in a 24-hour period due to frequent lockdowns or staffing issues. When allowed outside, they are permitted to enter an airing yard outside of the cell and prevented from any social interactions with other women.³¹⁸

A submission from 2 academics who specialise in trans and gender diverse people in the criminal justice system stated: ‘this practice is internationally recognised as a human rights violation, and it is known to exacerbate mental health issues and deprive TGD people of their right to social interaction and support, contravening international standards on the treatment of prisoners’.³¹⁹

For trans women and non-binary people in women’s prisons, there is also ‘a consistent narrative that transgender women, particularly, should be kept separate from other female prisoners for the “safety” of cisgender women’.³²⁰ Protecting the safety of all people in detention is critical. This ultimately requires assessment of individual circumstances. Safety assessments for trans and gender diverse people should consider the specific circumstances of the individual, rather than applying a generalised approach.

The Commission is particularly concerned at the use of solitary confinement as a default mechanism to address these issues. As noted in the Commission’s recent report [*‘Left Alone’: A Review of Solitary Confinement and Similar Practices in Australia’s Youth Justice*](#)

[Systems](#), solitary confinement can negatively affect inmates' physical and mental health. It can undermine their sense of self and make it harder for them to reintegrate into the detention population and wider community after release.³²¹

Violence, abuse and denial of human rights

Research from Australia and the US has reported prison officers calling trans women derogatory names like 'dog and mutt', 'thing' and 'sex degenerate'.³²² Research from the US and Australia also shows that other inmates routinely subject trans women and non-binary people in men's prisons to ongoing sexual violence.³²³ This also happens to young trans women and non-binary people in juvenile custodial settings.³²⁴

Research and submissions show that authorities frequently deny imprisoned trans and gender diverse people appropriate healthcare, including access to gender affirming hormone therapy.³²⁵ Corrections officers often subject trans and gender diverse inmates to strip searches. Officers and other inmates frequently misgender, deadname and subject trans and gender diverse inmates to transphobic harassment.³²⁶

The mistreatment that trans and gender diverse people face in prison has led to suicidal ideation and suicide attempts.³²⁷ Some trans women have talked about self-harming or entering sexual relationships as a form of 'protection' from others sexually assaulting them.³²⁸

There are also unique challenges faced by trans and gender diverse people who seek to change their name and gender while imprisoned. According to Victoria Legal Aid's submission, prisoners often face significant delays, sometimes of more than 2 years, and must navigate multiple gatekeeping decision-makers and systems. An additional barrier in Victoria is that authorities must consider if the name or gender change would be offensive to a victim or the community.³²⁹ This is a subjective judgement.

Existing Australian research on trans and gender diverse people in prisons does not disaggregate data based on intersecting identities such as race or disability. However, several studies quote multiple participants

who identified as being Aboriginal and Torres Strait Islander people. The Beyond Bricks & Bars Trans Decarceration Project noted that of its 62 participants, 26% (16) were Aboriginal and Torres Strait Islander people and 13% (8) were culturally and racially marginalised.³³⁰ Although more data is needed, these findings suggest that, as one submission from an organisation that works with trans and gender diverse prisoners noted: 'Disproportionately, trans and gender diverse (TGD) people who are incarcerated are Aboriginal trans women, Sistergirls and trans women of colour, reflecting the ways in which racism, transphobia and misogyny intersect with criminalisation'.³³¹

Decriminalisation and justice reinvestment

Several submissions pointed to practices that aim to reduce imprisonment rates through prevention and decriminalisation of particular crimes.

Research shows that trans and gender diverse people have higher prevalence of substance misuse and sex work than the general population. This is even more pronounced for trans and gender diverse people with intersecting marginalisations, such as Aboriginal and Torres Strait Islander people and other culturally and racially marginalised people.³³²

Sex work and drug use or possession are illegal in several Australian jurisdictions. Advocates for decriminalisation of these offences point to domestic and international jurisdictions that have already done so and with positive outcomes.³³³ Sex work laws are inconsistent across Australia. The Northern Territory (2019), Victoria (2022) and Queensland (2024) have fully decriminalised sex work; in the ACT, NSW and Tasmania some forms of sex work are decriminalised but with restrictions; in South Australia and Western Australia sex work is still illegal.³³⁴

Even beyond specific laws, police can change their practices in ways that reduce imprisonment rates. Police should be directed not to perform specific activities such as stopping, questioning and searching young trans and gender diverse people in public because of their appearance.³³⁵

Justice reinvestment refers to when communities work together to redirect some of the money spent each year on prisons (estimated to be more than \$6 billion) towards rebuilding communities.³³⁶ Justice reinvestment involves strengthening community support infrastructure including education, healthcare, housing, employment initiatives and mental health and substance misuse support. The Australian Government has run justice reinvestment programs in First Peoples communities which have proven successful.³³⁷ Submissions advocated for similar approaches with trans and gender diverse people.³³⁸



Beyond Bricks & Bars

This is a Victorian, community-led justice reinvestment initiative. It supports trans and gender diverse people in prison, at risk of imprisonment and those transitioning from prison to the general community. Project members provide peer social work and counselling services, prepare post-release plans and provide referrals before release. They also assist trans and gender diverse people transitioning from prison to access services like accommodation and Centrelink, and to purchase groceries, gender affirming clothing and other items.

An evaluation of Beyond Bricks & Bars found that it had delivered numerous benefits, including:

- improved mental and physical health and wellbeing
- reduced suicide attempts
- support transitioning into the community
- avoiding and reducing further imprisonment
- greater understanding of gender affirmation
- improved self-advocacy from imprisoned people.³³⁹

2.5 Housing

- Housing is a human right. Australian governments do not adequately ensure the right to housing. This affects the entire population, with particular challenges for trans and gender diverse people.
- Disadvantage and discrimination against trans and gender diverse people in housing is both direct and indirect.
- Housing assistance, homelessness supports and crisis accommodation need to be inclusive of trans and gender diverse people.

Relevant human rights laws and principles

- **Article 11 of the *International Covenant on Economic, Social and Cultural Rights*:** says that States party to the Covenant ‘recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right’.³⁴⁰
 - International organisation United Nations Habitat specifies that the right to housing under ICESCR does not require states to build homes for all citizens. Rather, ‘appropriate steps’ means governments must provide means to ensure that ‘everyone has access to housing resources adequate for health, wellbeing, security and other human rights’.³⁴¹
- **Yogyakarta Principle 15 – The Right to Adequate Housing:** says that ‘Everyone has the right to adequate housing, including protection from eviction, without discrimination on the basis of sexual orientation or gender identity’. The principle also calls for governments to ‘Take all necessary legislative, administrative and other measures to ensure security of tenure and access to affordable, habitable, accessible, culturally appropriate and safe housing, including shelters and other emergency accommodation, without discrimination on the basis of sexual orientation, gender identity or marital or family status’.³⁴²



Housing as a human right

Housing affordability and accessibility conditions within Australia have deteriorated in recent years.³⁴³ Insecure housing or homelessness significantly impacts on the enjoyment of other rights, such as the right to an adequate standard of living, the right to education, the right to liberty and security of the person, the right to privacy and the right to freedom from discrimination. The failure to protect housing as a human right exposes trans and gender diverse people to other disadvantages and discrimination.³⁴⁴

There are limited protections of the right to housing in Australia. This is despite research indicating broad Australian community support for such protections.³⁴⁵

In September 2025, the ACT amended its *Human Rights Act 2004* (ACT) to recognise a right to housing; this comes into effect in 2027.³⁴⁶ Queensland and Victoria's human rights acts do not explicitly recognise a right to housing. However, Queensland's law has provisions relating to rights of social housing tenants. Residents in both states have used other parts of their human rights acts to challenge matters relating to housing.³⁴⁷

Other ways to support trans and gender diverse people's right to housing are through

participatory policymaking. This means federal, state and territory governments engage with trans and gender diverse people as part of their housing and homelessness policy development.³⁴⁸

There are no federal Australian housing policies which specifically focus on trans and gender diverse people. Data about housing assistance and specialist homelessness services does not include trans and gender diverse people as a discrete group. This data can support the development of housing assistance and specialist homelessness support services to meet the needs of trans and gender diverse people.³⁴⁹ Regulatory settings, policies, compliance and reporting also need to capture gender diversity. This is essential to monitor long-term improvements to housing outcomes for trans and gender diverse people.

Many submissions observed that trans and gender diverse people have lower rates of ownership and higher rates of housing stress than cisgender people in Australia.³⁵⁰ As Equality Australia summarised: 'While housing is a concern for everyone, discrimination, the compounding effects of economic disadvantage and concerns around safety exacerbate the difficulties trans and gender diverse people have in securing safe and affordable housing'.³⁵¹

Homelessness rates

Private Lives 3 was a national study conducted by ARCSHS. It provided data on the health of trans and gender diverse people in Australia. That data included stark figures about homelessness:

Trans and gender diverse participants reported higher rates of ever experiencing homelessness than cisgender participants. Over one third (34.3%; n = 103) of trans men, 33.8% (n = 311) of non-binary participants, 31.9% (n = 91) of trans women, 19.8% (n = 584) of cisgender women and 16.8% (n = 391) of cisgender men reported ever experiencing homelessness.³⁵²

Some common circumstances respondents gave relating to their homelessness were: financial stress, mental health issues, unemployment, family violence and violence in their previous accommodation.³⁵³

Housing discrimination

Disadvantage and discrimination in housing may be direct and/or indirect. A few submissions described trans and gender diverse people who faced direct discrimination and a lack of equal opportunities to access both housing and crisis accommodation.³⁵⁴ Equality Australia gave the example of a trans woman from Queensland who said: 'my husband and I were denied a lease renewal last year due to my transgender status'.³⁵⁵

Family Access Network – a homelessness service in Victoria – also noted that trans and gender diverse people often face barriers in the private rental market because of 'issues around identification required to apply for properties. E.g. name on application may not match a person's gender presentation'.³⁵⁶

Submissions also gave examples of trans and gender diverse people living in public, social or private housing who faced discrimination, harassment and abuse. For example, Inner City Legal Centre described 'a notable rise

in trans women with disabilities living in community housing that are the subject of vilification and harassment from their neighbours'.³⁵⁷

The TRANSform longitudinal study of 807 trans and gender diverse participants found that of those survey respondents living with other people, 92% strongly agreed or agreed that the people they lived with treat them fairly and respectfully. The report also found that within the past 12 months:

- 1 in 14 (7%) had experienced anti-trans discrimination, threats of violence, or violence from a neighbour
- 1 in 20 (6%) had moved where they were living because they felt unsafe
- 1 in 10 (10%) had lived somewhere they felt unsafe but did not have the option to move
- 1 in 2 (52%) reported one or more type of housing instability
- 1 in 10 (9%) reported one or more type of homelessness.³⁵⁸

Other submissions focused on housing crises facing young trans and gender diverse people in Australia. Rainbow Futures WA – Western Australia's peak LGBTIQ+ advocacy organisation – referred to the Trans Pathways report and other research in their submission:

A survey of 859 trans and gender diverse Australians (14–25 years old) found that 22% had experienced accommodation problems or homelessness ... LGBTIQ+ people are listed in the Parliamentary Inquiry into Homelessness Report released in August 2021 ... Key findings from the report included LGBTIQ+ experiences of discrimination, harassment, misgendering and violence when accessing housing services and accommodation, meaning LGBTIQ+ people are less likely to seek out a service, leading to rough sleeping or other unsafe alternatives.³⁵⁹

A joint submission from the Youth Pride Network, Transfolk of WA and Freedom Centre noted that trans and gender diverse people are overrepresented in homelessness statistics due to 'their increased vulnerability from family rejection and violence [and] a lack of social supports'.³⁶⁰

Multiple submissions pointed to the difficulties that trans and gender diverse people face accessing and retaining paid employment.³⁶¹ Precarious employment makes many trans and gender diverse people vulnerable to missing out on rentals and the housing market.

Homelessness and crisis accommodation services

Submissions also expressed concern over the treatment of trans and gender diverse people in homelessness services. There are no targeted housing services for homeless trans and gender diverse people. Family Access Network noted that there are only 2 dedicated LGBTIQ+ family violence refuge beds in Victoria. Its submission explained:

In Transitional Housing, Family Access Network still supports the only 3 LGBTIQ+ exclusive transitional housing properties in the state of Victoria. These properties are essential to provide our [y]oung TDG [sic] clients the time and resources to transition to sustainable long-term secure housing. Demand for these properties continually outstrips availability.³⁶²

The joint submission from Youth Pride Network, TransFolk of WA and Freedom Centre stated that ‘crisis accommodation services are often created on the premise of gendered rooms and areas and thus are unable to accommodate for TGD individuals easily or inclusively’.³⁶³

The Domestic, Family and Sexual Violence Commission’s 2022 *National Plan to End Violence Against Women and Children 2022–2032* notes the ‘over-representation of trans people (binary and non-binary) as victim-survivors of family and domestic violence’.³⁶⁴ The National Plan does not identify specific barriers to crisis accommodation, nor does it provide guidance on the inclusion of trans and gender diverse people in existing services. Still, the plan recommends capacity building and for housing and infrastructure plans to include LGBTIQ+ lived and living experience from the early design phase through to completion of new crisis accommodation and social housing.³⁶⁵

The Victorian Royal Commission into Family Violence addressed the issue of crisis accommodation for trans and gender diverse people. It noted that, under legislation at the time, crisis accommodation providers could exclude trans and gender diverse people if they had not updated gender markers on their birth certificates.³⁶⁶ Since then, the Victorian Government has updated its laws on legal recognition (see section 3.4).

Importantly, the Royal Commission into Family Violence recommended the need to clarify relevant provisions of anti-discrimination law ‘to remove any capacity for family violence accommodation and service providers to discriminate against lesbian, gay, bisexual, transgender and intersex Victorians’.³⁶⁷

The Royal Commission’s final report outlined how this could work in practice by using a human rights approach ‘which seeks to balance the rights of those currently receiving and those seeking to receive support’.³⁶⁸ The report recommended that the communal refuge model be phased out and replaced with self-contained units. The report acknowledged that ‘this may not relieve all the problems that arise from homophobia and transphobia but may assist with those that occur in a shared living environment’.³⁶⁹ This issue is relevant to other state and territory jurisdictions as well.

The Victorian Royal Commission into Family Violence also recommended that all funded family violence services should achieve Rainbow Tick accreditation.³⁷⁰ Rainbow Tick is one example of a ‘quality framework that helps health and human services organisations show that they are safe, inclusive and affirming services and employers for the LGBTIQ community’.³⁷¹ Rainbow Tick requires organisations to meet 6 standards around organisational capability, workforce development, consumer participation, a welcoming and accessible organisation, disclosure and documentation and culturally safe and acceptable services.

3. Being Seen and Heard (Dignity)

Being seen and being heard are fundamental to a person's dignity. Trans and gender diverse people in Australia still face challenges being seen and counted accurately. Some of the more pronounced barriers are being recognised in their affirmed gender and accessing healthcare. Additionally, research and data collection often render trans and gender diverse people as invisible. All the barriers to being recognised as who they are affect trans and gender diverse people's identity, health and wellbeing.

Recommendation 7:

All government, government-affiliated and government-funded bodies that collect demographic data should ensure data on gender, sexuality and innate variations of sex characteristics (sometimes known as intersex variations) is collected in line with the [*ABS Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables \(2020\)*](#).

This includes:

- a. collecting data on gender identity from everybody to ensure that health and support services have the data necessary to meet the needs of trans and gender diverse children and adolescents
- b. implementing new data collection protocols in partnership with LGBTIQ+ and trans and gender diverse specific organisations to establish community trust and ensure privacy and sensitivity concerns are understood.

Recommendation 8:

The Australian Government Department of Health, Disability and Ageing should require LGBTIQ+ and trans and gender diverse representation on key advisory groups, committees and rapid reviews. The Department should also establish a specific ongoing LGBTIQ+ Health Advisory Group to:

- a. provide advice on matters relating to trans and gender diverse health, and LGBTIQ+ health more broadly
- b. provide advice on relevant government initiatives affecting LGBTIQ+ communities, such as the [*National Suicide Prevention Strategy 2025-2035*](#) and the [*National Action Plan for the Health and Wellbeing of LGBTIQ+ People 2025-2035*](#)
- c. advise on LGBTIQ+ health data collection and contribute to the continuous improvement of the Health Data Portal and key national data sets.

Recommendation 9:

Healthcare providers and education and training institutions (i.e. universities, TAFEs) should ensure that all healthcare and healthcare-adjacent workers and students receive education and ongoing professional development on inclusive care for trans and gender diverse people. This includes awareness of how intersecting forms of discrimination can affect trans and gender diverse people's health and access to healthcare services.

Recommendation 10:

Federal, state and territory governments should introduce or amend legislation to ban conversion or suppression practices. This legislation should follow the following principles:

- a. design the legislative framework in consultation with survivors of conversion or suppression practices
- b. apply the ban on conversion and suppression practices to both religious and secular settings
- c. make it unlawful to take someone out of the jurisdiction for conversion or suppression practices
- d. allow reporting by third parties
- e. carefully define and provide examples of what is and is not a conversion or suppression practice
- f. include an education plan which covers:
 - i. who is protected by the law
 - ii. how to identify conversion or suppression practices
 - iii. awareness of harm caused by conversion or suppression practices.

Recommendation 11

Federal, state and territory governments should reduce barriers that prevent trans and gender diverse people from accessing all forms of healthcare, including gender-affirming healthcare. Reducing barriers includes:

- a. increasing staff and service resourcing to meet urgent needs on existing waitlists for publicly funded hospitals and clinics
- b. running proactive public awareness campaigns that address misinformation and disinformation which target trans and gender diverse people's healthcare
- c. funding service access for trans and gender diverse people in remote, rural and regional communities.

Recommendation 12

Federal, state and territory governments should:

- a. end pauses on puberty suppressants and other hormone therapies for children and young people
- b. ensure that, in line with other areas of adolescent medicine, *Gillick* competence and clinical standards of care are the framework guiding the provision of healthcare to trans and gender diverse children and young people.

Recommendation 13

The Australian Government should repeal Section 43A of the *Sex Discrimination Act 1984* (Cth).

3.1 Data and research

- There is a significant gap in research and data on trans and gender diverse populations and experiences in Australia. The lack of sufficient data creates challenges for designing policies, developing practices and allocating funding to support trans and gender diverse populations.
- The ABS 2020 *Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables* outlines best practice for data collection questions about trans and gender diverse people.
- Researchers also need to consider data privacy and ensure that research design accounts for intersecting marginalisations and identities.

Relevant human rights laws and principles

- There are no specific provisions in international human rights law that refer to inclusion and accurate representation of gender diversity in research and data. However, the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) outlines that countries should monitor progress in areas such as the right to healthcare, education, housing and employment.
- The Australian Government cannot monitor progress on their obligation to ensure appropriate and accessible services for trans and gender diverse people without adequate data collection.
- In 2018, the UN provided States with guidance that aligns with the 2030 Agenda for Sustainable Development in 'A Human Rights-Based Approach to Data'. This publication notes the importance of more systematic data disaggregation.³⁷²
- **Yogyakarta Principle 25e - The right to participate in public life:** calls for governments to 'Develop and implement affirmative action programmes to promote public and political participation for persons marginalised on the basis of sexual orientation, gender identity, gender expression or sex characteristics'.³⁷³ Governments must have robust data on trans and gender diverse people to identify areas of need and develop such affirmative action programs.

The importance of data collection

The lack of accurate population data on trans and gender diverse people has wide ranging ramifications. Governments and researchers regularly use population data from the Australian Bureau of Statistics (ABS) Census of Population and Housing (the Census) to influence the allocation of resources and service provision. The Census has historically not collected data on sexuality or gender identity. One researcher explains why this is significant:

For groups of people that have been misrepresented, marginalized and oppressed by existing systems of power, data can offer a powerful tool in the fightback against inequality and injustice. When LGBTQ people are presented in a table, graph or data visualization, the general population are reminded of their existence, the inequalities they encounter and what remains unknown about their lives and experiences. The worlds of politics and policymaking run on data, which means that LGBTQ rights organizations are required to engage with existing systems of power and ways of working to bring about change.³⁷⁴

Several submissions emphasised that knowledge gaps impact on policy, practices and funding for these populations. The gaps also create a vacuum where misinformation and disinformation may spread.³⁷⁵ CoPQTI's submission explained the consequences of the lack of data:

Given we know from community research with transgender and gender diverse people that there are significant structural disadvantage and stigma in areas including employment, housing, health, family alienation, experiences of violence, and migration, it is urgent that we resolve data inequity so we can direct services to where they are most needed.³⁷⁶

As one practical example: a submission noted the need for more reliable data to inform the delivery of better healthcare. The Royal Australian and New Zealand College of Psychiatrists explained: 'More consistent data is required, as well as more research

into LGBTIQ+ mental health more broadly, including protective factors, comorbidity, effective interventions, and specific issues faced by high-risk populations.'³⁷⁷

The ABS Census

Organisations have previously raised the challenges arising from the lack of data on the trans and gender diverse population. ACON noted in its 2019 'Blueprint for Improving the Health & Wellbeing of the Trans & Gender Diverse Community in NSW': 'the absence of Census questions that accurately capture gender diversity in population-based surveys makes it difficult to conclusively estimate the size of the trans and gender diverse community'.³⁷⁸ After the 2021 Census, the Commission successfully conciliated a complaint of discrimination brought against the ABS for failing 'to ask meaningful questions to properly count members of the LGBTIQ+ community'.³⁷⁹

The 2026 Census will include questions about sexuality and gender identity for people aged 16 and over. The ABS had recommended that data on gender be collected for all persons, having assessed a strong need for data about younger populations.³⁸⁰

The ABS Census will not include a question about innate variations of sex characteristics, which means population data will not be available for this community.

In December 2024, the ABS released experimental estimates of LGBTIQ+ populations in Australia (note these do not include the 'A' for asexual). These estimates are based on a pooled dataset of 44,984 respondents from 4 recent health surveys conducted with Australians aged 16 years and over. The estimates were that 4.5% of Australians 16 years and older are LGBTIQ+. When looking at gender identity specifically, the estimate was that 0.9% of the population aged 16 and older is trans or gender diverse.³⁸¹ This data is an important step forward, as these experimental estimates are the first of their kind in Australia.

Innate variations of sex characteristics (IVSC)

Also known as intersex variations, people with IVSC are those born with sex characteristics that do not fit with typical medical notions of male or female bodies.

There are more than 40 known IVSC. These may be related to chromosomes, gonads, hormones or genitals. Some IVSC are visible at birth; others may manifest at puberty, while some people may never know that they have IVSC. It is estimated that between 0.3% to 1.7% of the population has IVSC. It is hard to obtain accurate figures because of the historical and ongoing secrecy around IVSC, stigma and misconceptions.³⁸² The exclusion of questions about IVSC from the Census exacerbates these problems.

Having IVSC or being intersex is not the same as being trans and gender diverse. Just like endosex people (those whose sex characteristics fall in the typical medical notions of male and female bodies), people with IVSC may be cisgender, trans or gender diverse. This all depends on whether the person identifies with their sex recorded at birth.³⁸³

InterAction for Health and Human Rights provides information about best practice to collect data around people with IVSC.³⁸⁴

Data collection best practice

Evidence shows that insensitive data collection approaches frequently exclude trans and gender diverse people.³⁸⁵ One common problem is to have no options for non-binary genders. Other times questions do not provide space for respondents to write in culturally specific genders (i.e. fa'afafine, hijra, 2Spirit).

The most up-to-date Australian guidelines for researchers and demographers to collect accurate population data are the ABS 2020 *Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables* (the ABS 2020 Standard). The ABS



2020 Standard suggests that researchers use multiple questions to ask a person's gender, sex recorded at birth, sexual orientation and if they have variations of sex characteristics. The recommended sex and gender questions are:

What was [your/Person's name/their] sex recorded at birth?

Please [tick/mark/select] one box.

- Male
- Female
- Another term (please specify)

Gender refers to current gender, which may be different to sex recorded at birth and may be different to what is indicated on legal documents.

Please [tick/mark/select] one box:

- Man or male
- Woman or female
- Non-binary
- [I/They] use a different term (please specify)
- Prefer not to answer.³⁸⁶

Stats NZ Tatauranga Aotearoa uses a similar framework to the ABS 2020 Standard. That framework also instils the principle of 'gender by default'. This requires all government agencies to default to:

the collection and output of gender data as opposed to sex. Users should have a clearly established information need for collecting and outputting sex data. This approach is in line with self-determination from a human rights perspective (New Zealand Human Rights Commission, 2020) and promotes the respect and inclusion of all people.³⁸⁷

In November 2025, the National Health and Medical Research Council (NHMRC) announced new data collection requirements for its grants program. Beginning in January 2026, all grant applications must indicate how researchers will take into account gender, sex, sexual orientation and variations of sex characteristics, where appropriate, in the proposed research. Furthermore, projects should apply the ABS 2020 Standard to data collection.³⁸⁸

Some submissions expressed concern that approaches to research and data collection do not always follow best practice guidelines. They argued that researchers need to do more to ensure sensitivity, and researchers need greater awareness when conducting research with marginalised groups.³⁸⁹

Several submissions also highlighted the need for researchers to implement an intersectional lens. This would ensure that data can inform the design and delivery of services to groups such as trans and gender diverse people from culturally and racially marginalised backgrounds, First Peoples, migrant, refugee and asylum seeker backgrounds, people with disability and currently or formerly imprisoned people.³⁹⁰ One way to avoid homogenising diverse groups and to capture intersectional experiences is to co-design data collection with relevant communities.³⁹¹

Sensitivities when collecting data

The ABS reported in September 2024 that its testing showed 'there was a similar level of understanding, comfort and support for including a gender question as there was for a question on sex'. Furthermore, the ABS reported that 'there was a broad understanding of the distinction between sex and gender'.³⁹²

Although the ABS found questions on gender and sexual orientation tested well, LGBTIQ+ organisations and researchers caution about complexities when conducting data collection and analysis. For instance, concerns about data privacy, lack of trust or fear of stigma may limit trans and gender diverse people's personal disclosures in research settings.³⁹³ TransHub - an online resource developed by ACON to educate and support trans and gender diverse people - cautions researchers to avoid making assumptions about trans and gender diverse people. Stereotypes and poor research design may limit their inclusion or participation in research.³⁹⁴

Researchers also need to be careful when they analyse data. One challenge is how changing understandings and terms around gender identity may influence studies. Rainbow Health Victoria explains: 'Changing and overlapping terminologies also present difficulties in comparing results across studies and over time, or combining figures, in order to estimate population size'.³⁹⁵

The challenges around data collection highlight the importance of researchers continually engaging with trans and gender diverse communities. As other sections of this report show, robust data is vital to support trans and gender diverse people across all domains of life.

3.2 Health and wellbeing

- Trans and gender diverse people face significant barriers to accessing healthcare.

- In Australia there is a lack of targeted trans and gender diverse healthcare service provision. This exacerbates poor physical and mental health outcomes because healthcare professionals often do not recognise or understand trans and gender diverse people's needs.

- Trans and gender diverse people access healthcare in a range of contexts. Best practice is a combination of broad affirming healthcare in all contexts and services specific to trans and gender diverse people.

Relevant human rights laws and principles

- **Article 12 of the *International Covenant on Economic, Social and Cultural Rights*:** states that parties to the Covenant must 'recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health'.³⁹⁶
- **Article 24 of the *Convention on the Rights of the Child*:** 'States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.'³⁹⁷
- **Article 12 of the *Convention on the Rights of the Child*:** 'States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.'³⁹⁸
- **Article 25 of the *Convention on the Rights of Persons with Disabilities*:** 'State Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability.'³⁹⁹
- **Article 24(2) of the *United Nations Declaration on the Rights of Indigenous Peoples*:** 'Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.'⁴⁰⁰
- **Yogyakarta Principle 17 – The Right to the Highest Attainable Standard of Health:** states that everyone has 'rights to the highest attainable standard of physical and mental health without discrimination on the basis of sexual orientation or gender identity. Sexual and reproductive health is a fundamental aspect of this right.'⁴⁰¹
- In addition to these provisions, **United Nations Sustainable Development Goal 3** aims for universal healthcare coverage. The goal is to 'Ensure healthy lives and promote well-being for all at all ages'.⁴⁰²

Rates of physical and mental ill health

Submissions from many researchers, psychologists, health professionals and professional bodies addressed health indicators for trans and gender diverse people in Australia.

Consistently, submissions drew on research which points to poor physical and mental health outcomes (regularly described as a 'mental health crisis'). Some submissions provided specific data and observations about trans and gender diverse people with intersecting identities (i.e. young people, trans women and Aboriginal and Torres Strait Islander people).

Many submissions noted trans and gender diverse people's higher risk of chronic health conditions. For example, the Trans Health Research Group stated:

[I]nternational research indicates that trans and gender diverse people have an elevated risk of many chronic health conditions compared to their cisgender counterparts including chronic obstructive pulmonary disease, hepatitis, HIV, schizophrenia, dependent patterns of substance use, as well as obesity and liver conditions.⁴⁰³

The Sexuality Education Counselling and Consultancy Agency reported:

TGDNB people are more likely to experience chronic health conditions including persistent pain, migraines, and chronic fatigue with minimal research conducted to determine cause and impacts (Rich et al., 2020).⁴⁰⁴

The Trans Health Research Group also highlighted evidence which shows that trans and gender diverse Australians are more impacted by long COVID and experience higher rates of eating disorders than the general population.⁴⁰⁵ Other researchers emphasised that the cause of eating disorders for most trans and gender diverse people is dysphoria, as opposed to dysmorphia. In other words, the eating disorders are the consequences of not feeling comfortable in their body because of their gender identity, as opposed to perceived flaws in their physical appearance.⁴⁰⁶

Misinformation, politicisation of trans and gender diverse people's lives, and threats and violence all negatively impact on the health of trans and gender diverse people.⁴⁰⁷ Many submissions cited *Private Lives 3* to draw attention to the disproportionately high rates of suicide and mental ill health among trans and gender diverse people in Australia.⁴⁰⁸ The LGBTIQ+ peer counselling service Switchboard noted that trans and gender diverse communities experience some of the highest rates of suicide, suicidality and poor mental health in the country.⁴⁰⁹ The Trans Health Research Group reinforced this finding:

Our national survey of Australian trans adults in 2018 showed that 73% had been diagnosed with depression and 43% had attempted suicide at some point in their lifetime, which is similar to findings in Australian trans youth ... Findings from our community survey in 2022, showed that almost one in ten (8%) of trans and gender diverse Australians had attempted suicide in the first two years of the pandemic, with these rates highest in young people (12.8%). The suicide crisis during the COVID-19 pandemic was highlighted by the Victorian Coronial Inquest into trans suicide deaths in 2023.⁴¹⁰

Another prominent Australian study referenced in multiple submissions was the 2017 Trans Pathways report into children and young people. Trans Pathways surveyed 859 trans and gender diverse young people (aged 14–25) and 194 parents or guardians. Researchers promoted the survey through social media, university queer departments, LGBTIQ+ support groups, parent support groups, peer-led safe spaces, Australian trans and gender diverse rights organisations, medical and mental health services and radio. Participants self-selected to do the surveys. This was the largest study into the mental health and care pathways for trans and gender diverse young people in Australia. Trans Pathways found:

- around 3 in 4 respondents had experienced depression or anxiety
- 4 in 5 trans young people had engaged in self-harm
- 48% (or almost half) of trans young people had ever attempted suicide



- trans young people were approximately 20 times more likely than the general youth population to attempt suicide.⁴¹¹

Researchers reinforce the point that being trans or gender diverse is not a mental illness. Rather, high rates of mental ill health are often the result of societal stigma and discrimination. For instance, a study in the *Nature Human Behaviour* journal explored the association between anti-transgender laws and the mental health of trans and gender diverse children and young people. The study found that in American states that had enacted anti-transgender laws, there was an increase in suicide attempts ranging from a 7% increase to a 72% increase over the past year among trans and gender diverse young people aged 13–17.⁴¹²

Intersectional health and wellbeing outcomes

Walkern Katatdjin (Rainbow Knowledge) is a national research project exploring the mental health and wellbeing of Aboriginal and Torres Strait Islander LGBTQA+ young

people. Walkern Katatdjin’s submission cited research about Aboriginal and Torres Strait Islander trans and gender diverse young people which showed that:

81.3% of trans participants scored in the ‘very high’ distress range on the Kessler-5 measure of recent psychological distress. Levels of psychological distress were significantly higher among trans versus cis participants ... up to 1 in 5 Aboriginal and Torres Strait Islander TGD young people have had a recent suicide attempt, with over 1 in 2 having a lifetime suicide attempt. Compared to cis participants, trans participants were nearly twice as likely to report a suicide attempt in their lifetime [and] were 1.8 times more likely to report suicide ideation in the last 12 months.⁴¹³

Other submissions noted the severe impacts of sexual violence on the health of trans and gender diverse victim-survivors. One submission cited a study where ‘45% (n = 25) of trans and gender diverse people in this study had attempted suicide as a direct result

of experiencing sexual violence, while 43% (n = 24) engaged in self-harm'.⁴¹⁴

ANROWS referred to research on the poor health outcomes resulting from trans women's high exposure to sexual violence.⁴¹⁵ ANROWS noted that the poor outcomes 'were intensified for trans people from culturally and linguistically diverse backgrounds and trans women of colour'.⁴¹⁶

A few submissions referenced research into health outcomes for trans and gender diverse people with disability. Sexuality Education Counselling and Consultancy Agency cited research which 'highlights the compounding effects of multiple forms of stigma and discrimination on the health outcomes of TGDNB people with disability'.⁴¹⁷ The National Ethnic Disability Alliance emphasised the compounding poor health outcomes for 'CaLD [culturally and linguistically diverse] people with disability, including those from migrant and refugee backgrounds'.⁴¹⁸

Finally, submissions reported poorer health outcomes for trans and gender diverse people outside the metropole and in tenuous living situations. These include people in regional or rural areas,⁴¹⁹ as well as homeless trans and gender diverse people. The Family Access Network also noted a connection between drug and alcohol misuse and homelessness among trans and gender diverse populations.⁴²⁰ ABS data and other research support these findings.⁴²¹

Health professional codes of conduct and non-discrimination

Trans and gender diverse people are entitled to the same quality of healthcare as all other people in Australia. They are also entitled to be treated with respect, free from discrimination. Two clauses in the Medical Board of Australia's code of conduct are particularly relevant to these rights. They state that good medical practice involves:

3.2.8 informing your patient when your personal opinion (in the context of practice) does not align with the profession's generally held views

3.2.14 ensuring your personal views do not adversely affect the care of your patient or the referrals you make.⁴²²

The Australian Medical Association (AMA) also has a code of ethics which affirms the importance of non-discrimination. In clause 4.6.2 it states that doctors must 'Provide care impartially and without discrimination on the basis of age, disease or disability, creed, religion, ethnic origin, gender, nationality, political affiliation, race, sexual orientation, criminal history, social standing or any other similar criteria'.⁴²³ The AMA released a Position Statement in 2023 which affirmed that doctors have an 'ethical and professional duty to provide evidence-based care impartially and without discrimination, including on the basis of gender identity'.⁴²⁴

The SDA protections for gender identity include when accessing healthcare. If a trans or gender diverse person receives unfair treatment while accessing a professional service, such as a doctor, they can make a complaint to the Commission.

Discrimination in healthcare

Despite the legal protections and codes of conduct, trans and gender diverse individuals frequently identified being excluded or overlooked from healthcare provision. Submissions identified a lack of training for medical professionals as underpinning a lack of cultural competence.⁴²⁵ Walkern Katatdjin's research found that the intersection of being trans or gender diverse, Aboriginal and/or Torres Strait Islander and young created even greater barriers to access healthcare:

28.1% of [trans and gender diverse] participants had been made to feel like they mattered less because they were Aboriginal and/or Torres Strait Islander and LGBTQA+, in a mainstream health service, while 35.6% had heard rude or hurtful comments about their Aboriginal and/or Torres Strait Islander and LGBTQA+ identity while accessing mainstream health services ... Just under half (40.7%) said that they had heard rude or hurtful comments about their Aboriginal and/or Torres Strait Islander identity when accessing LGBTQA+ specific health services.⁴²⁶

Many submissions described experiences of discrimination or hostility from healthcare professionals.⁴²⁷ Two indicative examples were:

‘I liked my GP until he saw my kid dressed as a girl. He became very judgy and said “but he is a boy and has a penis, what are you going to do about that?” I sat in my car and cried.’⁴²⁸

‘Many of the trans and gender diverse people that we [Illawarra Shoalhaven Gender Alliance] see have experienced terrible discrimination and in some cases abuse in health services, including denial of care, attempts to change gender identity, inappropriate genital examinations and untrained and culturally incompetent practitioners.’⁴²⁹

Numerous submissions gave specific examples of non-inclusive or discriminatory practices in healthcare settings. These included:

- misgendering⁴³⁰
- deadnaming⁴³¹
- breaches of privacy⁴³²
- the burden of educating health professionals about trans and gender diverse people⁴³³

- gendered service provision⁴³⁴ – especially when services are restricted ‘to a particular gender, or enforce a gender binary’⁴³⁵
- inappropriate language⁴³⁶
- inappropriate questions (i.e. questions about being trans which are unrelated to the health matter)⁴³⁷
- funding and costs, especially for psychiatrists and psychologists⁴³⁸
- under-resourcing of services specifically targeting trans and gender diverse people⁴³⁹
- systemic discrimination,⁴⁴⁰ including challenges with medical records⁴⁴¹
- ‘conversion’ or suppression practices (discussed further in section 3.3).

Other barriers to accessing healthcare

In some situations, it is prejudice that drives health professionals’ discriminatory behaviour. In other instances, it is health professionals’ unfamiliarity and lack of awareness about trans and gender diverse people and their experiences.⁴⁴² Regardless of the reason, non-inclusive or discriminatory practices can adversely affect trans and gender diverse people’s wellbeing in healthcare settings.

Many submissions noted⁴⁴³ that several healthcare providers continue to pathologise



trans and gender diverse people. For example, Your Community Health mentioned the 'mental health sector, where gender diversity can be conflated with mental illness'.⁴⁴³

Intersecting marginalisations magnify the barriers arising from these non-inclusive or discriminatory practices. One trans individual cited in research by Equality Australia said:

The links between queerness, gender diversity and neurodiversity, as well as all sorts of related physical and mental health issues, and the fact that they aren't linked or coordinated by GPs [general practitioners] or service providers is very frustrating for this ADHD person.⁴⁴⁴

The Refugee Advice and Casework Service also noted that trans and gender diverse asylum seekers often do not have access to Medicare. This is a major barrier facing a group who 'disproportionately experience physical and mental ill-health due to their overt experiences of persecution and trauma'.⁴⁴⁵

The Justice and Equity Centre pointed to prisons as another site where there is poor access to affirming healthcare for trans and gender diverse people.⁴⁴⁶ As noted in section 2.3, the Department of Home Affairs has agreed with a recommendation of the Commission to develop policy and procedural guidance relating to health, 'accommodation, welfare, security, and management of transgender persons in immigration detention'.⁴⁴⁷

The National Ethnic Disability Alliance suggested that the siloed nature of services, as well as the lack of services targeting trans and gender diverse people, could be addressed through 'cross-sectoral service mapping with an intersectional focus ... to support people from diverse backgrounds to safely navigate complex systems comprised of both mainstream and targeted services'.⁴⁴⁸

Consequences of healthcare barriers

Barriers and exclusionary services may lead trans and gender diverse people to avoid accessing healthcare. Indeed, submissions noted that trans and gender diverse people who experience mistreatment are more likely to exercise caution or avoid accessing healthcare services.⁴⁴⁹ Submissions also noted that histories of discrimination and abuse within the medical system still influence how some trans and gender diverse people perceive the system today.⁴⁵⁰

A few submissions noted how trans and gender diverse people may be avoiding accessing sexual health services. For instance, Women's Health in the North cited a study by the Kirby Institute which found that '60.1% of [trans and gender diverse] participants had not participated in testing for sexually transmissible infections (STIs) in the previous year'.⁴⁵¹ Scarlet Alliance also noted that some trans and gender diverse sex workers may not be accessing sexual healthcare. They indicated that some providers were demanding names as reflected on identity documents, which often were the sex workers' deadnames.⁴⁵²

Several submissions mentioned the rise in misinformation and disinformation and how this was impacting on them as health professionals, their clients or research participants. One mental health provider explained: 'The current climate of negative media and social media commentary and emboldened transphobia in Australia threatens to make it even harder for transgender and gender diverse people to access essential services including health care, mental health support'.⁴⁵³

Collectively, the evidence suggests a series of interrelated challenges for trans and gender diverse people's access to general healthcare in Australia. Barriers to inclusive service provision lead many trans and gender diverse people either to avoid seeking healthcare or to negative experiences within the system. Avoidance and negative experiences then fuel poorer physical and mental health outcomes. These outcomes, in turn, reinforce the *need* for greater access. Layered on top of this – and addressed in the next section – is the need for gender-affirming healthcare.

3.3 Gender-affirming healthcare

- The Australian Professional Association for Trans Health (AusPATH) publishes the ‘Australian Standards of Care for Informed Consent Gender-Affirming Hormone Therapy’. The Standards of Care draw on international guidelines, clinical experience, research into best practice and lived and living experience of trans and gender diverse people.
- Gender-affirming healthcare is a broad term describing the support and healthcare that helps trans and gender diverse people live as their true selves. The best contemporary evidence concludes that gender-affirming healthcare is safe, effective and benefits trans and gender diverse people, including children and young people.
- Barriers to accessing gender-affirming healthcare include high costs, long wait times, limited availability and a lack of training and cultural knowledge from healthcare professionals.
- Experts note that psychotherapy which starts from the premise that being trans or gender diverse is wrong or undesirable has similarities with conversion practices. Several state and territory laws ban conversion practices because they breach people’s human rights and do not reflect best medical practice.

Relevant human rights laws and principles

- The human rights laws and principles outlined at the beginning of section 3.2 on Health and wellbeing also apply to gender-affirming healthcare. **Articles 12 and 24 of the *Convention on the Rights of the Child*** recognise children’s right to the highest standard of health and to express their views in all matters affecting them. These rights include the right of the child to participate in decision-making around their own healthcare.⁴⁵⁴
- **Article 17 of the *International Covenant on Civil and Political Rights***: states that ‘No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.’⁴⁵⁵ This right to privacy applies in healthcare.
- **Yogyakarta Principle 17 – The Right to the Highest Attainable Standard of Health:** notes that States must:
 - **17e.** Ensure that all persons are informed and empowered to make their own decisions regarding medical treatment and care, on the basis of genuinely informed consent, without discrimination on the basis of sexual orientation or gender identity
 - **17f.** Ensure that all sexual and reproductive health, education, prevention, care and treatment programmes and services respect the diversity of sexual orientations and gender identities, and are equally available to all without discrimination
 - **17g.** Facilitate access by those seeking body modifications related to gender reassignment to competent, non-discriminatory treatment, care and support.⁴⁵⁶

What is gender-affirming healthcare?

Gender-affirming healthcare is a broad term for the support and healthcare that helps trans and gender diverse people live as their true selves. It covers medical, psychological, surgical and social support tailored to each person's needs. The World Health Organization succinctly explains: 'Gender-affirmative health care can include any single or combination of a number of social, psychological, behavioural or medical (including hormonal treatment or surgery) interventions designed to support and affirm an individual's gender identity'.⁴⁵⁷

Gender-affirming healthcare is not a one-size-fits-all model. Rather, it is customised to each person to make them feel comfortable living their authentic selves, without feelings of dysphoria.⁴⁵⁸

Gender-affirming health care is not unique to trans and gender diverse people. Similar principles apply widely in medicine, including procedures such as gynaecomastia surgery (breast reduction) in cisgender men, breast reconstruction in cisgender women after mastectomy and testicular prostheses following orchiectomy (removal of one or both testicles). All of these procedures aim to align physical characteristics with an individual's gendered sense of self.

There is a lot of incorrect information in the media and online about gender-affirming healthcare. This false information often comes from individuals or organisations opposed to trans and gender diverse rights. These groups and individuals often target healthcare – especially for children and young people. Other times the incorrect information about gender-affirming healthcare comes from pre-conceived ideas about what it means to be trans or gender diverse, with a heavy focus on the body and surgeries.

Because every trans or gender diverse person's gender affirmation preferences and needs are different, gender-affirming healthcare may take many forms. Some examples of what gender-affirming healthcare may include are:

- mental health support for coping with gender dysphoria or minority stress

- social support to change names, pronouns and legal documents
- gender affirming hormone therapy (GAHT)
- gender affirming surgeries (also known as gender affirmation surgeries)
 - mastectomy ('top surgery')
 - breast augmentation
 - vaginoplasty ('bottom surgery')
 - phalloplasty
 - facial feminisation surgery
- speech pathology or vocal training to help someone feel more comfortable with their voice
- electrolysis or other hair removal
- puberty suppressing medication for trans and gender diverse children, also known as puberty blockers (discussed below).

In Australia, trans and gender diverse adults may consent to gender-affirming healthcare. For some procedures, such as gender affirming surgery, adults may need to provide a mental health assessment, a physical medical assessment and informed consent. Depending on the surgery, the person may need mental health assessments from one or more mental health professionals.

Informed consent

There has been a shift in the medical profession, especially since the 2000s, towards an informed consent, gender-affirming healthcare model.

AusPATH – the peak body representing Australian health professionals who work with trans and gender diverse clients – publishes the 'Australian Standards of Care for Informed Consent Gender-Affirming Hormone Therapy'. These standards of care explain gender-affirming healthcare in the Australian context.⁴⁵⁹ They draw on international standards – including the World Professional Association for Transgender Health (WPATH) Standards of Care – along with other Australian standards and position statements.⁴⁶⁰ Both the Australian and WPATH standards of care outline the informed consent model, also known as 'ethical affirmation' or 'affirmation enablement'.

The informed consent model is a framework that supports general practitioners, endocrinologists and other medical specialists when starting or managing GAHT. This model recognises that each individual understands their own needs and experiences. They can make informed choices when professionals provide adequate information in comprehensible language about treatment options.

Informed consent means discussing an individual's goals for gender affirmation, understanding their medical history and sharing all relevant information about the benefits and risks of GAHT. Health professionals and the trans or gender diverse person can make decisions based on how GAHT may interact with any other healthcare needs.

'The Australian Informed Consent Standards of Care for Gender Affirming Hormone Therapy' also recommends doctors seek information about protective factors. These may be support networks, housing and connections to culture and community.⁴⁶¹ The informed consent model can also involve referrals to other services, such as speech pathology and vocal coaching or affirming mental health support.

Prior to the introduction of the informed consent model, trans and gender diverse people were expected to have assessments by mental health professionals to access GAHT. Usually psychiatrists performed these assessments and then referred trans and gender diverse people to endocrinologists, who prescribed the gender affirming hormones. The previous approach did not acknowledge non-binary genders and focused heavily on binary pathways and surgery. Trans and gender diverse people, as well as researchers, have noted ways this approach was dehumanising.⁴⁶² They also challenged the idea that all trans and gender diverse people needed or wanted surgeries.

There is no legal or regulatory requirement that medical professionals must provide gender-affirming healthcare. Individual health professionals across a range of disciplines may opt in or out of providing gender-affirming healthcare. Those who opt out do so for a range of reasons, including due

to personal or religious objections, being uncomfortable working in this space, and preferring to refer trans and gender diverse clients to specialists (as was done under the previous model). Other health professionals are not adequately aware of, or educated about, gender-affirming healthcare.⁴⁶³

Some of Australia's leading medical bodies have accepted the principles underpinning gender-affirming healthcare, including:

- the Royal Australian College of General Practitioners⁴⁶⁴
- the Royal Australasian College of Physicians⁴⁶⁵
- the Australian Medical Association⁴⁶⁶
- the Australian Women's Health Alliance⁴⁶⁷
- Endocrine Society of Australia⁴⁶⁸
- the Australian Professional Association for Trans Health (AusPATH).⁴⁶⁹



Benefits of gender-affirming healthcare

Submissions from several health and wellbeing providers emphasised the benefits of gender-affirming healthcare. For example, ACON drew on 'case studies from our client services team that highlight the importance of gender affirmative medical interventions and the impact that barriers to accessing these interventions, have on individuals' mental and physical health'.⁴⁷⁰

Members of Illawarra Shoalhaven Gender Alliance Clinical Network advised that they had seen 'firsthand the health benefits and positive life trajectories associated with having access to local and timely gender affirming healthcare, and experiencing broader health care in an environment of non-discrimination, respect and safety'.⁴⁷¹

Several submissions raised concern that the evidence base for gender-affirming hormone therapies – especially for children – was not sufficient and therefore risks causing harm.⁴⁷²

Evidence reviews, guidelines and standards of care produced in Australia and internationally have found that gender-affirming healthcare has favourable outcomes for trans and gender diverse people, including children and young people. Clinicians and those who developed standards of care balance known risks of treatment with evidenced benefits of treatment and the risks of withholding treatment. These evidence reviews note limitations in research, particularly regarding study design, the lack of long-term follow-up and cohort tracking as part of longitudinal studies.⁴⁷³

How Evidence Quality is Assessed

The term 'low quality' has a specific, technical meaning when used in the assessment of quality of evidence in scientific research. The NHMRC considers the GRADE system (Grading of Recommendations Assessment, Development and Evaluation) to be best practice when assessing evidence.⁴⁷⁴ The GRADE system assesses study design and categorises evidence on a scale from 'very low quality' to 'high quality'. Observational studies are typically coded as 'low quality', yet medical interventions commonly come from findings from observational studies. Systematic reviews suggest that only a minority of healthcare interventions are supported by 'high quality' evidence.⁴⁷⁵ The GRADE handbook provides examples of how strong recommendations can be based on low quality evidence.⁴⁷⁶

A submission from The Melbourne Children's Campus – a coalition comprised of the Royal Children's Hospital, the Murdoch Children's Research Institute and the University of Melbourne's Department of Paediatrics – also noted that 'Standards of research that are not applied in other areas of healthcare are applied to gender affirming care, such as calls for unfeasible study designs and restricting care access to research participants only'.⁴⁷⁷

Ongoing research and evaluation are vital to improving the quality of treatments and outcomes in all areas of medical care.

Developing standards of care for children and young people

There is substantial incorrect information circulating in the media, online, among politicians and in public discourse about what gender-affirming healthcare is for children and young people. Much of the false information draws on false stereotypes used to attack gay and lesbian people since the 1970s. This false information does not recognise that trans and gender diverse children and young people have agency and capacity to participate in decision-making about themselves. Critics of gender-affirming healthcare apply different standards to this area of medicine than what is accepted practice around treatment and informed consent in any other area of child and adolescent health.

In 2017, the Royal Children's Hospital Gender Service published the 'Australian standards of care and treatment guidelines for transgender and gender diverse children and adolescents'. Doctors developed these standards after a lengthy process which drew on existing standards, treatment guidelines, clinical and observational studies and lived and living experience of trans and gender diverse children, young people and their parents. A multidisciplinary team from adolescent psychiatry, paediatric endocrinology, paediatrics and allied health worked together to develop the standards.⁴⁷⁸

The 'Australian standards of care for trans and gender diverse children and adolescents' are considered world leading. An editorial in the international medical journal *The Lancet* commented:

Children and adolescents with gender dysphoria often experience stigma, bullying, and abuse, resulting in high rates of mental illness, including depression, anxiety, and self-harm. But with supportive, gender-affirming management – as laid out by the Australian guidelines – these consequences can be minimised.⁴⁷⁹

AusPATH and specialists who work with trans and gender diverse children and young people consider these Australian standards of care to be best practice. On 31 January 2025, the Health Minister announced that

the NHMRC would lead a review into the Australian standards of care and to develop national guidelines. Interim advice is expected in mid-2026.⁴⁸⁰

Gender-affirming healthcare for children and young people

The need for standards of care for trans and gender diverse children and young people reflects their complex social and healthcare ecosystems. This is a summary of the main principles of gender-affirming healthcare, as outlined in more detail in the Australian standards of care.

Some aspects of social affirmation are the same as for adults, for example changing names and use of pronouns. However, children and young people navigate social affirmations in different contexts. For instance, children must consider school environments, and laws around changing names or gender on documents are different for children under the age of 18.

Medical affirmation is also different for trans and gender diverse children. Changes to the body during puberty can cause significant distress for trans and gender diverse people. Puberty suppressing medication – commonly referred to as puberty blockers – can temporarily halt puberty for children. This can have significant mental health benefits, as well as prevent the need for further medical or surgical procedures in adulthood. For example, puberty suppressants stop people recorded male at birth from growing facial and body hair and their voices dropping. People recorded female at birth can avoid developing breast tissue.

Like with adults, not all trans and gender diverse children choose to medically affirm their gender. For those who do, health professionals classify medical affirmation for trans children and adolescents the following way:

- puberty suppressants; administered when blood tests show onset of Tanner stage 2 or 3 of puberty⁴⁸¹
- gender-affirming hormone treatment (GAHT; estrogen or testosterone).

From 2004 until 2013, only the Family Court of Australia could authorise children's access to both puberty suppression and GAHT. In



Re Jamie (2013) the Full Court of the Family Court held that court authorisation was no longer required for doctors to prescribe a puberty suppressant to children with gender dysphoria.⁴⁸² In *Re Kelvin* (2017) the Full Court held that children and young people who had attained *Gillick* competence (discussed below) could give valid consent to GAHT without needing approval from the Family Court. This could happen when there was no dispute between the child, their parents and their medical practitioners about the treatment, and health professionals carried out the treatment in accordance with best practice guidelines.⁴⁸³ Approval from the Federal Circuit and Family Court *would* be required if there was disagreement between the young person, their clinicians and their caregivers about the relevant treatment.⁴⁸⁴

The Full Court in *Re Kelvin* noted that there had been significant advances in medical knowledge and in the development of standards of care for the treatment of gender dysphoria.⁴⁸⁵ It also noted that the risks of GAHT and the risks of withholding treatment were better understood, so the role of judicial approval could be reassessed. As summarised in the leading judgment: ‘the risks involved and the consequences which arise out of the treatment [for gender dysphoria] being at least in some respects irreversible, can no longer be said to outweigh the therapeutic benefits of the treatment’.⁴⁸⁶

Puberty suppression via GnRHa (gonadotropin-releasing hormone agonist)

This is medication that pauses the development of primary and secondary sex characteristics. Puberty suppression allows children to take time and make decisions about their bodies. They may decide to start GAHT, or they may decide to cease puberty suppression. If they cease puberty suppression, they will go through natural puberty development.

Doctors have prescribed puberty suppressants since the 1980s to treat precocious puberty in children. Since the 1990s doctors overseas have prescribed puberty suppressants to trans and gender diverse children and young people. Since 2004, doctors in Australia have been prescribing puberty suppressants to trans and gender diverse children and young people. There are now decades of evidence which show that puberty suppressants are effective and acceptably safe and that adolescents tolerate side effects, such as impacts on bone mineral density, well.⁴⁸⁷ Puberty suppressants have led to clear improvements to psychosocial health.⁴⁸⁸

Gender-Affirming Hormone Therapy (GAHT)

Doctors may prescribe GAHT (i.e. testosterone therapy or estrogen and/or progesterone therapy, sometimes alongside an androgen suppressor). Similar to puberty suppressants, doctors have been prescribing GAHT to young people for decades.⁴⁸⁹

Some effects of GAHT are reversible, some are irreversible and for some the reversibility is unknown. Substantial evidence suggests positive outcomes for trans and gender diverse people who access GAHT. However, evidence reviews note that expert opinion is largely based on clinical experience rather than controlled studies.⁴⁹⁰

The Australian standards of care provide useful tables which outline the effects and reversibility GAHT. Part of the informed consent process involves discussing these effects and reversibility before commencing any treatment. For instance, the Australian standards of care recommend fertility counselling before anyone commences GAHT.⁴⁹¹ Emerging research suggests that long-term the effects of GAHT on fertility may also be reversible.⁴⁹²

Another kind of medical affirmation is gender affirming surgery. Gender affirming surgery for trans women – meaning breast augmentation and vaginoplasty or bottom surgery – is not available for people in Australia under the age of 18. Under legal precedent set by *Re Matthew* (2018), top surgery is available via the private health system for people experiencing severe dysphoria about their chest.

The case *Re Imogen* (2020) confirmed that administering puberty suppressing medication and GAHT requires the consent of doctors, children or adolescents *and* all parents or legal guardians. This means that if one or both parents or guardians does not consent, then the Federal Circuit and Family Court of Australia needs to authorise treatment.

One submission raised concerns about the delays and expenses imposed by going through a court process. This is particularly challenging when there is an absent parent or a parent with family violence intervention orders.⁴⁹³

A submission from 4 family law specialists claimed that individuals critical of gender-affirming healthcare have authored and spread papers and hosted seminars attempting to influence family lawyers, practitioners and the judiciary. The submission claimed:

[W]e have observed an ongoing and deliberate attempt within the legal profession (specifically family law) to continue to undermine the current gender affirming care model, including the specific work of the expert practitioners at the RCH [Royal Children's Hospital] via the legal system.⁴⁹⁴

There is consensus among health practitioners who work with trans and gender diverse children and young people that access to puberty suppressants and GAHT is beneficial for their mental health and wellbeing. An evidence summary produced by headspace concluded:

Overall, the peer-reviewed literature suggests that GnRHa [puberty suppressing medication] is correlated with improved general functioning and peer relations, and reduced depressive symptoms, suicidal ideation, and behavioural and emotional problems in trans and gender diverse young people.⁴⁹⁵

Reinforcing this point, a recent study published in the *Journal of Pediatrics* found that GAHT led to a 68% reduction in suicidality among trans and gender diverse young people.⁴⁹⁶

Consent for children and young people under the age of 18

Several submissions identified the legal requirement for parental consent as a barrier to the wellbeing and rights of children.⁴⁹⁷ The Family Access Network explained: 'Accessing gender affirming care can be difficult for young people requiring consent from parents who are not supportive[,] which can result in key development intervention opportunities being missed'.⁴⁹⁸

Advocates for gender-affirming healthcare for children and young people support a framework around informed consent and *Gillick* competence. This would leave decisions about treatment solely with health professionals and children who demonstrate *Gillick* competence.



Gillick competence

Gillick competence refers to a case-by-case measure to evaluate the capacity of young people under the age of 18 to consent to medical care. The expression comes from a 1986 legal case. A child is *Gillick* competent if they have 'sufficient understanding and intelligence to enable [them] to fully understand what is proposed'.⁴⁹⁹ This standard will vary depending on the nature of the procedure, with a greater level of understanding required for more significant procedures. It is the responsibility of healthcare providers to determine if a child or young person has the capacity to understand the reasons and consequences of treatment. If they have this capacity, then they are deemed *Gillick* competent and can provide informed consent.⁵⁰⁰

Gillick competence is a principle under the common law. In South Australia there is specific legislation dealing with the ability of young people to consent to medical treatment. It provides that young people 16 years of age and over can consent to medical treatment as validly and effectively as an adult.⁵⁰¹ Under age 16 they can consent without the need for parental approval if 2 medical practitioners agree that the treatment is in the young person's best interests and that the young person is *Gillick* competent (i.e. able to understand the nature, consequences and risks of the treatment).⁵⁰²

Many submissions expressed concern about the possible damage to children and young people's health when they are prevented from consenting to gender-affirming healthcare.⁵⁰³ In contrast, one submission expressed concern that children and young people under age 18 are not competent to consent.⁵⁰⁴

Some criticisms of gender-affirming healthcare for children and young people cite a perceived conflict between the rights of parents and the rights of children. Some argued that health practitioners were overriding the rights of parents. The

Convention on the Rights of the Child recognises that parents have the primary responsibility for caring for their child.⁵⁰⁵ This includes the responsibility to provide appropriate direction and guidance to their child in the exercise by the child of their own rights.⁵⁰⁶ This interconnected set of rights and responsibilities recognises the agency of children and young people as rights bearers and not merely objects of protection.⁵⁰⁷

Q+ Law, an LGBTIQ+ legal service, stated that confusion often arises from the inconsistent information circulating about gender-affirming healthcare:

conflicting literature on widely endorsed medical processes has been used by other parents to oppose treatment. There has been further confusion since the publication of the Westmead study,⁵⁰⁸ and the campaigning of the use of ‘watchful waiting’, which is not supported by clinicians and medical practitioners who treat children with gender dysphoria and has further contributed to the delay in the medical treatment of TGD minors.⁵⁰⁹

A growing body of research demonstrates that many trans and gender diverse children and young people are well positioned to understand and consent to treatment over their own bodies. One study noted:

Through qualitative content analysis of interviews with trans youth, parents, and healthcare providers, we found that trans youth demonstrated the understandings and abilities characteristic of the capacity to consent to hormone therapy and that they did consent to hormone therapy with positive outcomes ... granting trans youth with decisional capacity both the right and the legal authority to consent to hormone therapy via the informed consent model of care is ethically justified.⁵¹⁰

Barriers to accessing gender-affirming healthcare

Several submissions discussed barriers to accessing gender-affirming healthcare. The more common barriers included:

- lack of availability of gender-affirming healthcare service providers
- long wait times
- lack of GPs who had awareness and understanding of trans and gender diverse people
- limitations on Medicare coverage and cost implications
- limitations on private insurance coverage.

Submissions noted that these issues are compounded for people from intersecting marginalised backgrounds. For example, this includes people seeking asylum or refugees, imprisoned people,⁵¹¹ people with disability, those in regional or rural areas, homeless people and those with low socio-economic status.⁵¹²

Delays or inability to access gender-affirming healthcare can have adverse consequences for trans and gender diverse people’s physical and mental health. For instance, research shows that when health professionals refuse or delay the provision of gender-affirming healthcare, it can instil a sense of hopelessness in trans and gender diverse people.⁵¹³ One key consequence of these barriers is that some people are self-administering hormones from unregulated markets.⁵¹⁴

Costs

Several submissions identified cost as a key barrier to accessing gender-affirming healthcare.⁵¹⁵ Puberty suppressants for trans and gender diverse children are not on the Pharmaceutical Benefits Scheme (PBS).⁵¹⁶ Private health insurance excludes many other gender-affirming treatments,⁵¹⁷ as gender affirming surgeries are not assigned MBS items on the Medicare Benefits Schedule. Gender affirming surgery can cost tens of thousands of dollars. The Trans Health Research Group stated:

despite the strong evidence that gender affirming surgeries can be lifesaving for trans and gender diverse people, in Australia, gender-affirming surgery is classified as elective/cosmetic surgery by governmental guidelines. Therefore, gender affirming surgery is not provided in the public health sector, and Medicare only offers small rebates. Even with private health insurance, gender affirming surgeries result in prohibitive out-of-pocket expenses. Consequently, and as shown by our research, there are very high rates of unmet need for gender affirming surgery in the Australian trans and gender diverse community.⁵¹⁸

Other researchers noted that the cost of care itself is 'exacerbated by loss of income during post-surgery recovery periods, and the absence of gender-affirming leave'.⁵¹⁹ Some trans and gender diverse people draw on their superannuation to fund surgeries.⁵²⁰ This can contribute to poverty, as one individual explained in their submission:

These expenses can mean the difference between being able to affirm one's gender identity or not – but are so high that they can effectively push some trans people into poverty. While for others, they are completely unaffordable. For example, in March 2018, the ABC reported that: 'There's a massive price tag on being transgender in Australia. For some, the cost of surgery and treatment for gender dysphoria will crack \$100,000'.⁵²¹

Wider research and guidelines support these findings. For example, the Trans Pathways study found that among its surveyed 14 to 25-year-old participants, 15.5% wanted access to gender-affirming surgery 'but were unable to access what they want because of the cost'.⁵²²

Anti-pathologisation

For many years, doctors and the public considered trans and gender diverse children and adults to be ill ('pathologised'). Since the 1980s, internationally recognised manuals like the *Diagnostic and Statistical Manual of Mental Disorders* (DSM) and *International Classification of Diseases* (ICD) classified trans and gender people as having psychiatric conditions like 'transsexualism', 'gender identity disorder' or 'gender dysphoria'.

Trans and gender diverse people are not by definition ill; they are part of the rich diversity of human nature. The UN has highlighted that pathologisation is one of the root causes of human rights violations faced by trans and gender diverse people. In June 2019, the World Health Organization formally declassified trans identity as a mental illness in the ICD.⁵²³

Wait times and availability

Many submissions mentioned lengthy wait times to access gender-affirming healthcare.⁵²⁴ The *Private Lives 3* study reinforced these submissions. It found:

less than half of trans women (49.5%; n = 142) and trans men (49.5%; n = 135), and one quarter (25.8%; n = 154) of non-binary participants, agreed or strongly agreed with the statement, 'I have been easily able to access gender affirming care when I have needed to'.⁵²⁵

One study into the effects of waiting to access gender-affirming healthcare in Tasmania found that participants believed clinicians were wasting their time. They described waiting as straining their mental health and creating a great sense of uncertainty about their lives and futures.⁵²⁶

Several submissions noted that children who have begun puberty face significant waits to access gender-affirming healthcare.⁵²⁷ Submissions noted that the Royal Children's Hospital in Melbourne – Australia's largest



provider of gender-affirming healthcare for children and young people – had a 2-year waitlist for new clients.⁵²⁸ Waiting times for trans and gender diverse children and adolescents can have adverse effects on their physical and mental health. For instance, researchers presented evidence that lengthy waits are associated with an increase in eating disorders.⁵²⁹

Submissions noted that private practitioners are sometimes reluctant to provide gender-affirming healthcare,⁵³⁰ especially for children and young people. This may, in part, be due to the legal implications for gender-affirming health care. One mental health service provider explained: ‘a major medical insurer, [is] informing GPs that they will no longer be insured if they provide gender-affirming treatment to young people under 18 years of age’.⁵³¹

Intersectional marginalisations

Some groups of people face intersecting barriers to accessing healthcare. One

submission reported that imprisoned trans and gender diverse people face multiple barriers to gender-affirming healthcare, including administrative issues with referrals, limited providers and wait times of up to 2 years.⁵³² People seeking asylum and migrants often do not have access to Medicare. People whose first language is not English may face challenges finding healthcare providers who speak their language. There are also challenges finding interpreters who are both safe for trans and gender diverse people and are familiar with the relevant terminology.⁵³³

Submissions also noted challenges facing some trans and gender diverse people to access the NDIS. ColourFull Abilities, an LGBTIQ+ specific disability support service, stated: ‘There are disparities in healthcare provision for trans and gender diverse participants within the NDIS, including limited access to gender-affirming care and medical treatments, surgeries, therapies, mental health support, and specialist services’.⁵³⁴

Lack of training

Several submissions identified a lack of training about gender-affirming healthcare as a barrier to access.⁵³⁵ Often trans and gender diverse people have the burden of educating health professionals about trans and gender diverse people and gender-affirming healthcare.⁵³⁶ The Curtin University Gender Research Network summarised: ‘Limited awareness and understanding of gender diversity among healthcare professionals often leads to misgendering, discrimination and inadequate care for TGD patients (Poteat et al., 2013).’⁵³⁷

This situation is heightened for trans and gender diverse people who cannot access specialist centres or providers, and those who rely more heavily on generalist GPs. Limited access to gender-affirming specialists is part of a broader challenge around healthcare access in regional areas. The Illawarra Shoalhaven Gender Alliance explained:

In regional areas, general practitioners are the mainstay of health services, and if well trained can provide access to care, particularly through hub and spoke models to larger, centrally located multidisciplinary services as needed. This points to the need for a rapid investment not just in services but in curricula in health professional undergraduate and postgraduate training to upskill practitioners, particularly in medicine and psychology but also in allied health areas.⁵³⁸

As the Trans Justice Project noted, one risk of inadequate training about trans and gender diverse healthcare is that it can create a vacuum where misinformation can flourish.⁵³⁹

Concerns about gender-affirming healthcare for children and adolescents

Submissions from some psychiatrists, psychologists, parent groups and private individuals expressed concerns about puberty suppressing medication and gender-affirming healthcare for young people under the age of 18.⁵⁴⁰ The Affiliation of Australian Women’s Action Alliances (AAWAA) described puberty suppressants and GAHT as ‘treatments that rely on a limited evidence base [and that

they] are by nature experimental and engage heightened human rights responsibilities’.⁵⁴¹

There are several critical human rights considerations that relate to any discussion or form of treatment relating to gender-affirming healthcare for those aged under 18 years. These are:

- the best interests of the child should be a primary consideration (Article 3 of the *Convention on the Rights of the Child* [CRC])
- all children have the right to preserve their identity (Article 8 of the CRC)
- all children have the right to express their views freely in matters that affect them, including decisions that affect their health, and to have those views given due weight in a manner consistent with the evolving capacities of the child (Article 12 of the CRC)
- all children have the right to freedom of thought, conscience and religion (Article 14 of the CRC)
- all children have the right to the highest attainable standard of health and health care, including access to services, safe treatment, and a supportive environment (Article 24 of the CRC and Article 12 of *International Covenant on Economic, Social and Cultural Rights* [ICESCR])
- all children have the right to life (Article 6 of the *International Covenant on Civil and Political Rights* [ICCPR])
- all children have the right to be free from discrimination (Article 26 of the ICCPR).

Australian reviews have noted that the evidence base for the use of puberty suppressant medication and GAHT to treat young trans and gender diverse people is of ‘satisfactory or low quality’. The reviews also indicate that the number of studies is growing each year and that findings are consistent.⁵⁴² As discussed earlier in this section, the term ‘low quality’ has specific meaning in the context of scientific evidence. It does not mean that that evidence classified as ‘low quality’ should be disqualified from consideration when developing guidelines or standards of care.⁵⁴³

A review of all American Academy of Paediatrics guidelines found that 90% of clinical interventions in child health are supported by low to moderate certainty evidence rather than high-quality randomised trials.⁵⁴⁴ Ethical and practical constraints often limit paediatric randomised trials.⁵⁴⁵ Contemporary evidence frameworks such as GRADE explicitly recognise that strong clinical recommendations in paediatrics may appropriately rest on consistent observational evidence, combined with clinical expertise and careful risk-benefit assessment.⁵⁴⁶

Some submissions discussed the implications of gender-affirming healthcare for infertility and sexual functioning.⁵⁴⁷ They argued that the ‘gender affirmation model’, puberty suppression and hormones harm children and young people’s bodies and wellbeing.⁵⁴⁸

The Australian Standards of Care and the WPATH standards of care require doctors to provide information on the risks and benefits of gender-affirming healthcare. As noted above, this includes discussing impacts on fertility with the young trans or gender diverse person, as well as their families and caregivers. Both standards of care recommend providing information about options and access for fertility preservation.⁵⁴⁹ This is supplemented by existing protocols and standards for children and adolescents who undergo other treatments which may impact on fertility, such as treatments for cancer.

Some submissions which expressed concerns about gender-affirming healthcare for children and young people referenced the Cass Review undertaken in the United Kingdom.⁵⁵⁰ These submissions suggested that advocates of the ‘gender affirmation model’ have social goals to foster diversity and undermine tradition.⁵⁵¹ They described gender affirmation as the ‘promotion of gender identity ideology’.⁵⁵² A submission from a psychiatrist noted:

The Affirmation Model also attracts some health professionals who are not driven to provide evidence-based care but are instead driven by their own broader societal goals: to move away from biological relationships and biological reality, and to make society more diverse and less traditional.⁵⁵³

The Cass Review

In 2020, the National Health Service (NHS) England commissioned the *Independent Review of Gender Identity Services for Children and Young People* – commonly known as the Cass Review.⁵⁵⁴ The Cass Review final report, published in 2024, recommended against gender-affirming healthcare for trans children and young people. Instead, the Cass Review advocated greater focus on psychosocial support, psychotherapy and ‘watchful waiting’ until age 18. These alternatives to gender-affirming healthcare aim to unpack why a child or young person identifies as trans or gender diverse.⁵⁵⁵ Based on the Cass Review, UK and Aotearoa New Zealand Health Ministers banned the general use of puberty suppressants for trans children and young people. In the UK they will only be available as part of NHS clinical trials.⁵⁵⁶

Since its publication, numerous doctors and health bodies that work in trans healthcare have published peer-reviewed articles criticising the Cass Review’s methodology and findings, including in the *Medical Journal of Australia*.⁵⁵⁷ Some of the most important criticisms are:

- The Cass Review identified and evaluated studies using methodologies and tools that were rated at high risk of bias.⁵⁵⁸
- There was significant emphasis on the lack of ‘high quality’ evidence, such as randomised control trials. However, bioethicists note that it would be unethical to deny treatment like puberty suppressants and GAHT to trans and gender diverse children and young people.⁵⁵⁹
- The Cass Review did not accept any lived and living experience of trans people and their families as evidence.
- The Cass Review team were not experts or practitioners in trans healthcare.

Some submissions to the Commission expressed concern that gender affirmation reinforces gender stereotypes. The submission from Genspect – an international alliance of parents and professional groups opposed to medicalised approaches to gender diversity – mentioned that ‘the educational resources used by paediatric gender clinics and trans advocacy organisations ... reinforce regressive sex stereotypes as part of an education program about “gender identity”’.⁵⁶⁰ The Women’s Rights Network Australia (WRNA) similarly criticised a trans and gender diverse charity which ‘equates masculine gender expression with outdated stereotypes such as “wearing pants, having short hair, and liking football” – a characterisation which we believe harms all gender-nonconforming children, regardless of their specific gender identity.’⁵⁶¹ Women’s Forum Australia suggested:

the rise in gender dysphoria in young women and girls needs to be considered in light of the unique pressures they face in the areas of sexual violence, objectification in porn, entertainment and advertising, and the more general body image issues resulting from phenomena like social media, eating disorders, unhealthy interpersonal relationships, gender stereotypes, or other cultural expectations, which can cause them to hate their bodies and indeed being female.⁵⁶²

Submissions critical of gender-affirming healthcare referenced some theories or concepts such as Rapid Onset Gender Dysphoria (ROGD).⁵⁶³ Another common expression used by critics of gender-affirming healthcare is ‘social contagion’. This refers to ‘the seemingly spontaneous process by which information, such as attitudes, emotions, or behaviours, are spread throughout a group from one member to others’.⁵⁶⁴ Concepts like ‘Rapid Onset Gender Dysphoria’ and ‘social contagion’ suggest that trans and gender diversity are the result of exposure to trans and gender diverse content on social media.⁵⁶⁵

Some submissions directly challenged these concepts. The Trans Justice Project described:



the myth of rapid onset gender dysphoria (ROGD) by anti-trans groups. Initially proposed in an article by Lisa Littman, ROGD positions the motivation behind gender affirmation solely as ‘fitting in’ (Littman, 2018). This article was retracted and corrected due to significant problems with its methodology (Littman, 2019), and journal PLOS One issu[ed] an apology for its publication (Heber, 2019). Further, research on the experiences of TGD youth have contradicted Littman’s argument that the decision to transition happens suddenly or is due to social conformity (Kennedy, 2020; Bauer et al., 2021; Turban et al., 2023). Despite this, anti-trans groups use this deficient article widely in their attempts to influence policy (Leveille, 2022).⁵⁶⁶

Peer-reviewed research published by the *Society for Research in Child Development* has also found that trans and gender diverse children’s sense of their own gender was as consistent as their cisgender peers.⁵⁶⁷

State and territory pauses on gender-affirming healthcare for children and adolescents

In January 2025, the Queensland Minister for Health and Ambulance Services announced a pause on the Queensland Children's Gender Service prescribing puberty suppressants and GAHT to new patients (those already on medication would be permitted to continue). The Minister justified the decision based on 'contested evidence surrounding the benefits of Stage 1 [puberty suppressants] and Stage 2 [GAHT] hormone therapy for children and adolescents with gender dysphoria'.⁵⁶⁸

This pause came about despite the findings of a review of the Queensland Children's Gender Service published in July 2024 – 6 months earlier. That review concluded:

The informed consent process and the information contained within the consent forms for the commencement of puberty blockers and gender affirming hormones is comprehensive and considers the capacity of the child or adolescent and their family to provide informed consent. The risks and implications of commencing medical interventions for gender dysphoria are explained well. The process of making decisions about medical intervention is thoughtful, considered and evidence based.⁵⁶⁹

Some Queensland parents of trans and gender diverse young people have reported their children experiencing significant distress since the implementation of the pause.⁵⁷⁰ This echoes research conducted in the UK following the introduction of their ban on puberty suppressing medication.⁵⁷¹

In October 2025, a court ruled that the Minister's directive was unlawful because he had not engaged in

adequate consultation.⁵⁷² The Minister immediately issued a new directive pausing the prescription of puberty suppressing medication and hormone therapies for the treatment of gender dysphoria.

When the Minister announced the pause in January 2025, he also commissioned an independent review (the Vine Review) into the prescription of puberty suppressing medication and GAHT in Queensland. The Vine Review noted that their evidence reviews found 'some evidence of benefit', and that there was 'not good evidence' that either treatment caused harm in the short or medium term and little evidence of harm in the long term. It did not make recommendations but presented options around pausing or retaining the availability of treatment with puberty suppressants and GAHT. The Vine Review noted that continuing a pause on treatments in the public health system was the option with the most risks.⁵⁷³ Nonetheless, on 19 December 2025, the Minister announced that the pause on prescribing puberty suppressing medication for trans and gender diverse children would continue until the completion of clinical trials in the UK. This is not expected until 2031.

On 21 December 2025, the Northern Territory Health Minister announced a pause on public health services prescribing puberty suppressing medication and GAHT to trans and gender diverse children. Medical associations and advocates for gender-affirming healthcare continue to raise concerns that these pauses will cause significant harm. In a statement, Royal Australian and New Zealand College of Psychiatrists President, Dr Astha Tomar, said that 'governments have a responsibility to meaningfully engage with the evidence ... and to ensure that policy settings do not outpace or distort the clinical realities they are intended to address'.⁵⁷⁴

Detransition and Reidentification

Three submissions expressed concern about ‘detransition’.⁵⁷⁵ Detransition refers to when people reidentify with their sex recorded at birth after they have had medical or surgical interventions. The submissions used blogs and newspaper articles as sources to assert that there are ‘growing ranks’ of ‘detransitioners’. Women’s Forum Australia explained in their submission:

detransition stories are also similar: unresolved ongoing mental issues now compounded by medical and surgical damage to their bodies (including infertility, vaginal atrophy, loss of breasts and inability to breastfeed, loss of sexual function, osteoporosis, and more), feelings of bitterness towards the therapists who failed to safeguard their welfare, and experiences of rejection from the ‘trans community’ they formerly called home. Collectively, these personal testimonies offer a devastating challenge to the ‘affirmation only’ approach to gender transition.⁵⁷⁶

Research shows that people may reidentify with their sex recorded at birth for a range of reasons and may reidentify permanently or temporarily. In one US survey of nearly 28,000 trans and gender diverse people, 8% reported some kind of reidentification. Of that group, 82.5% did so because of external factors like pressure from family and societal stigma.⁵⁷⁷

In Australia and overseas, empirical evidence demonstrates low rates of surgical regret and reidentification.⁵⁷⁸ A study from WA’s statewide gender diversity service for children and adolescents analysed all patient records between 2014–2020. It found that:

Patients who reidentified with their birth-registered sex comprised 5.3% (29 of 548; 95% CI, 3.6% –7.5%) of all referral closures. Except for two patients, reidentification occurred before or during early stages of assessment (93.1%; 95% CI, 77.2% – 99.2%). Two patients who reidentified with their birth-registered sex did so following initiation of puberty suppression or gender-affirming hormone treatment (1.0% of 196 patients who initiated any gender-affirming medical treatment; 95% CI, 0.1% – 3.6%).⁵⁷⁹

The WA study found that reidentification is low and mainly occurs during the assessment process. This study is an example of best practice which distinguishes between desistance and detransition. Combining the rates of people who detransition with people who desist from gender affirmation can produce misleading results.

Desistance versus detransition

Desistance generally refers to when a person reidentifies with their sex recorded at birth before proceeding with medical interventions. This is distinct from detransitioning, when someone reidentifies after having undergone hormone treatment or gender affirmation surgery. The gender-affirming healthcare model works with clients to understand their gender identity and make informed decisions – which may include desistance.

An editorial in the *International Journal of Transgender Health* cautioned against how some researchers (and those who cited them) were producing misleading data by conflating rates of desistance with detransitioning. The editorial stated:

For clarity, researchers should distinguish between treatment discontinuation and changes in gender identity. They should also separately report on regret associated with treatment and the reasons for this regret, to properly contextualize data on the medical and social trajectories of trans young people.⁵⁸⁰

Challenging False Information

As noted in section 2.2, the rise of misinformation and disinformation negatively influences how people feel about trans and gender diverse people. This has been especially acute around gender-affirming healthcare. The Royal Children’s Hospital submission noted: ‘misinformation and disinformation targeting TGD children is increasing in Australia, exposing trans youth to material that pathologizes their existence,

promotes trans hate and discrimination, and erodes confidence in trans healthcare'.⁵⁸¹

Several submissions identified how health professionals' ideological bias and personal views may impact on trans and gender diverse people's right to health.⁵⁸² They were concerned about how some health practitioners were spreading false information about gender-affirming healthcare – especially for children – as part of wider campaigns against trans rights.

For instance, the Trans Justice Project described how 'Campaigns of medical disinformation aim to deny necessary medical intervention to TGD people and promote hesitancy among parents of children seeking gender-affirming care'.⁵⁸³ The Kids Research Institute Australia, in reference to these campaigns, said that 'attempts to radicalise parents online jeopardise trans young people's access to appropriate gender-affirming care, and broader psychological support'.⁵⁸⁴

Submissions suggested that threats and calls to ban gender-affirming healthcare further spread false information and cause distress to trans and gender diverse people.⁵⁸⁵ For instance, Your Community Health reported: 'the very real threat of future legislative changes has resulted in a rise in anxiety and psychological distress within the trans community. Access to hormones and gender-affirming care saves lives. When this is taken away, there are devastating consequences.'⁵⁸⁶

Conversion and suppression practices

A significant barrier to gender-affirming healthcare is the promotion and deployment of conversion practices. Conversion practices, also known as Sexual Orientation and Gender Identity Change Efforts (SOGICE), are commonly understood as 'a set of practices that aim to change or alter an individual's sexual orientation or gender identity'.⁵⁸⁷ Such practices are 'based on the false belief that such core aspects of a person's identity are pathological or undesirable or can be changed'.⁵⁸⁸ One Australian study found that around 4% of LGBTIQ+ Australians aged 14–21 years experienced conversion practices.⁵⁸⁹

The goal of these practices may be identity suppression (avoiding or concealing

behaviour that is not heterosexual or cisgender) or identity change (becoming heterosexual or cisgender).⁵⁹⁰ Researchers note that 'beliefs that sexuality and gender can be suppressed or changed can occur in a range of settings and can manifest in many ways'.⁵⁹¹

Health clinicians, ethicists and social scientists have widely condemned conversion practices.⁵⁹² A group of independent medical experts observed that conversion practices are 'ineffective, inherently repressive, and [are] likely to cause individuals significant or severe physical and mental pain and suffering with long-term harmful effects'.⁵⁹³ The Kids Research Institute Australia noted:

available evidence does indicate that conversion efforts for sexual orientation and gender identity are both associated with an increased risk of depression and suicidal ideation. People who have undergone such 'therapies' have reported serious and long-term harms including shame, self-hatred, social isolation, anxiety, depression, post-traumatic stress disorder, and suicidal ideation. At least one group of clinicians advocating both non-affirmation and conversion practices has been listed as a hate group by the [US-based] Southern Poverty Law Center.⁵⁹⁴

Despite evidence that conversion practices cause significant harm, they are still 'practiced in every region of the world by health professionals, religious practitioners, and community or family members'.⁵⁹⁵ In Australia, the group SOGICE Survivors produced the 'SOGICE Survivor Statement'. It calls on all governments to ban conversion practices, implement training to mental healthcare providers and to set up redress schemes for survivors of conversion practices.⁵⁹⁶

Two submissions reported personal experiences of medical practitioners who performed conversion and suppression practices.⁵⁹⁷ These practices still happen, even though they are illegal in several states and territories.

The ACT, NSW, Queensland, South Australia and Victoria all have legislation which bans conversion or suppression practices in certain contexts.⁵⁹⁸ The legislative frameworks are



not the same. Some of the key areas where state and territory conversion or suppression practice bans differ are:

- the terminology and definition of conversion or suppression practices
- who can lodge a complaint about conversion or suppression practices
- statute of limitations
- settings where the legislation applies (e.g. religious and secular settings, just healthcare settings)
- whether legislation provides examples of what is or is not a conversion practice
- if it is unlawful to take someone out of the state or territory to perform conversion or suppression practices.

In 2024, the ACT Government tabled a statutory review of the *Sexuality and Gender Identity Conversion Practices Act 2020 (ACT)*. The report identified awareness and need for education on legislation and conversion or suppression practices as the key theme raised by stakeholders.⁵⁹⁹

When the Tasmanian Government introduced a draft bill to ban conversion practices in 2023, LGBTIQ+ activists heavily criticised it. They argued it contained ‘too many loopholes [that] will not prevent the conversion practices from occurring’.⁶⁰⁰ That bill never passed, and conversion practices are not expressly prohibited in Tasmania.⁶⁰¹ They are also not prohibited in WA or NT.

A joint submission from the national LGBTIQ+ legal association Pride in Law, Victorian Women Lawyers and Liberty Victoria stated that both exposure to conversion practices and inconsistent legal protections pose a threat to trans and gender diverse people’s rights.⁶⁰² Other submissions also made this point.⁶⁰³

One submission raised concerns that legislation banning conversion and suppression practices was wrongfully conflating sexual orientation with gender identity. The submission stated:

Gender identity is synonymous with gender dysphoria, a serious mental health condition where a person believes their body is incongruent with their biological sex, and which is often in part the result of other mental health issues and trauma. Seeking to assist a person to not be gender dysphoric should therefore not be considered a ‘conversion practice’.⁶⁰⁴

This interpretation of gender identity is at odds with the WHO, which noted that the redefinition of ‘gender dysphoria’ to ‘gender incongruence’ in *ICD-11* ‘reflects current knowledge that trans-related and gender diverse identities are not conditions of mental ill-health, and that classifying them as such can cause enormous stigma’.⁶⁰⁵

In 2021 the Australian Psychological Society issued the position statement ‘Use of psychological practices that attempt to change or suppress a person’s sexual orientation or gender’. It states that ‘approaches to mental health practice variously referred to as “reparative”, “conversion” or “ex-gay” “therapy” are based on the assumption that being lesbian, gay, bisexual, transgender or queer (LGBTQ+) is indicative of psychological dysfunction, and that this can be “cured”’.⁶⁰⁶ The Australian Psychological Society’s characterisation of conversion practices is important when considering non-affirming approaches to healthcare.

Alternatives to gender-affirming healthcare

Some submissions suggested alternative models to gender-affirming health care.⁶⁰⁷ These included ‘extended psychotherapy’ or ‘gender exploratory therapy’.

Some submissions suggested that being trans or gender diverse was the result of mental ill health, rather than the cause of mental health challenges.⁶⁰⁸ One submission from a psychologist stated: ‘The decision to ignore the mental health problems is based on the unproven theory that these problems are the result of their stated gender dysphoria, not the cause of it.’⁶⁰⁹

Advocates for gender-affirming healthcare and trans and gender diverse rights have challenged some of these ‘alternatives’ as

misleading. A trans academic stated that mental health professionals who oppose gender-affirming healthcare:

employ misleading euphemisms like ‘gender exploration’ and ‘watchful waiting’ to disguise their harmful gender conversion practices, and who conduct methodologically flawed and ethically fraught clinical studies on vulnerable trans youth, while citing each other along with a growing body of trans-hostile misinformation, propaganda, and ideology to support their harmful practices.⁶¹⁰

The prevailing evidence base opposes these alternative approaches, as noted in an evidence summary from headspace:

The current review did not find any empirical research of alternative approaches to gender-affirming care that yielded positive mental health or wellbeing outcomes, despite the broad search strategy encompassing all approaches to gender-related distress in young people.⁶¹¹

Research has shown that psychotherapy practices that start from a premise that being trans or gender diverse is wrong, unnatural, or that people who are trans or gender diverse can change, suppress or overcome their identity, have similarities with conversion practices.⁶¹²

A trans academic who has conducted extensive research into ‘gender exploratory therapy’ included several points about the relationship between opponents of trans and gender diverse rights, their opposition to gender-affirming healthcare and the relationship to conversion practices. For instance, their submission questioned the wording of the NSW Conversion Practices Ban Bill 2024. They argued that the bill would exempt registered health practitioners who perform what are essentially conversion practices. They also noted that ‘professional status’ may legitimise ‘a number of highly vocal trans-hostile mental health practitioners in Australia and abroad [who] have increasingly created confusion and fear about gender-affirmative health care’.⁶¹³

3.4 Legal recognition of gender

- Trans and gender diverse people face numerous difficulties around legal recognition of their gender. These challenges affect matters including name changes, government documents, health services, homeless and violence crisis support services, parentage and employment checks and clearances.
- The best practice model for legal recognition gives individuals the autonomy to self-identify their name and gender. In Australia, the Victorian and Tasmanian self-identification approaches to gender on birth certificates are a good model. Those jurisdictions allow individuals to nominate their own gender from a range of categories.

Relevant human rights laws and principles

- The *Universal Declaration of Human Rights* (Article 6) and *International Covenant on Civil and Political Rights* (Article 16) recognise that ‘Everyone shall have the right to recognition everywhere as a person before the law’.⁶¹⁴
- **Yogyakarta Principle 3 – The Right to recognition before the law:**
 - No one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilisation or hormonal therapy, as a requirement for legal recognition of their gender identity. No status, such as marriage or parenthood, may be invoked as such to prevent the legal recognition of a person’s gender identity. No one shall be subjected to pressure to conceal, suppress or deny their sexual orientation or gender identity.⁶¹⁵



Gender identity and legal documentation

In Australia, identity documentation comes under a complex and overlapping web of state and territory laws. Some of the documents or areas that recognise gender include passports, birth certificates, marriage and parentage or parental rights. The 2 most prominent points that trans and gender diverse people have advocated for in relation to legal documents are:

- the right to change gender or names without having medical or surgical interventions
- the recognition of non-binary genders.

Progress on both points has been uneven across federal, state and territory jurisdictions. On non-binary recognition, the 2014 High Court case *New South Wales Registrar of Births, Deaths and Marriage v Norrie* confirmed that the NSW Registry of Births, Deaths and Marriages could register a person’s sex in a way that was not limited to the binary of man or woman.⁶¹⁶

At a federal level, from 1984 trans and gender diverse people could change the sex marker on their passports if they had gender affirming surgery. In 2011 the Foreign Minister introduced new guidelines allowing people to change the gender on their passports without having gender affirming surgery. These guidelines also allowed people to nominate the non-binary gender marker ‘X’ on their passports.⁶¹⁷

In July 2013, in response to recommendations of the Commission,⁶¹⁸ the Attorney-General’s Department published the ‘Australian Government Guidelines on the Recognition of Sex and Gender’. These guidelines are similar to the rules on passports. There is no longer a requirement to have gender affirming surgery and/or hormone therapy to change someone’s gender on any federal government record.⁶¹⁹

The legal requirements around changing sex or gender markers differ across states and territories. In many jurisdictions, there may be requirements around length of residency or citizenship. Beginning in the ACT in 2014, state and territory governments amended legislation around changing sex or gender on birth certificates.⁷

7 Note the years in this table are when legislation passed. Usually there was an implementation delay of between 6-12 months.

Jurisdiction	Removed requirement for gender affirming surgery	Introduced non-binary sex or gender option(s)
ACT	2014	2014
NSW	2024	2014 ⁸
NT	2018	2018
Queensland	2023	2023
SA	2016	2016
Tasmania	2019	2019
Victoria	2019	2019
Western Australia	2011/2024 ⁹	2024

Several submissions to this report came before NSW and WA amended their legislation.⁶²⁰ Those submissions highlighted the problematic medical and surgical requirements those states previously imposed for trans and gender diverse people.

Although states and territories no longer require gender affirming surgery, the jurisdictions have taken different approaches to birth certificate changes. South Australia, the Northern Territory and Western Australia require evidence that the trans or gender diverse person has undergone ‘appropriate clinical treatment’. Trans and gender diverse advocates find this requirement to be problematic because it still pathologises them and falls short of self-identification.

Advocates point to the Victoria and Tasmania models as best practice for self-identification. In Victoria, a person who is 18 years of age or older may apply to the registrar to alter the record of their sex and nominate a different sex descriptor.⁶²¹ Victoria provides the individual with a broad range of available categories, or they can nominate their own.⁶²²

8 After *NSW Registrar of Births, Deaths and Marriages v Norrie*, residents of NSW could change their sex marker to ‘non specific’. However, they still needed to have gender affirming surgery to make this or any other change.

9 The High Court ruled in 2011 that under the *Gender Reassignment Act 2000* (WA), a person only needed a medical intervention (e.g. GAHT) to change their gender marker, not gender affirming surgery. See *AB v Western Australia and AH v Western Australia* [2011] HCA 42. In 2024 the law changed to remove the requirement of medical interventions.

In Tasmania, a person who is 16 years of age or older may apply to have their gender registered on their birth certificate (in addition to their sex).⁶²³ The gender recorded may be male, female or a non-binary description, or no gender marker at all.⁶²⁴

Those critical of trans and gender diverse rights have pushed to reverse laws around self-identification on birth certificates. At the time of publication, this has not happened in any jurisdiction.

Ongoing barriers to self-identification and recognition

Despite the progress on changing sex or gender on birth certificates and other government documents, several submissions described trans and gender diverse people facing challenges having their gender recognised. They also described legal change processes as inaccessible.

Many submissions also described barriers trans and gender diverse people face having their affirmed gender or names recognised in private and other non-government settings. Submissions noted these challenges in contexts such as health services, homelessness and violence crisis support services, as well as employment-related processes such as employment checks and clearances.⁶²⁵ According to community organisation Parents for Trans Youth Equity, parents seeking to affirm their child's name and gender on legal documentation face an even more complex process. This can have implications for travelling, getting driver's licences, school enrolments and accessing healthcare.⁶²⁶

In the healthcare context, Your Community Health noted: 'It is commonly reported that some health and wellbeing workers refuse to use a client's pronouns and chosen name unless formally updated on a birth certificate or Medicare card'.⁶²⁷ Similarly, Scarlet Alliance outlined the way that 'many sexual health services now require patients to disclose their name as it appears on identity documents (which may be a non-preferred or "dead" name for many TGD people) and/or require patients to disclose their Medicare information'.⁶²⁸ As noted in section 3.2, this sometimes deters trans and gender diverse

sex workers from undertaking sexual health checks.

According to Victoria Legal Aid, discrepancies between a person's legal name, sex marker and gender create barriers for trans and gender diverse people from getting parole and accessing housing, social security, education and work. Victoria Legal Aid also identified that a significant challenge in tertiary education is that 'birth names/dead names are used on university systems and are difficult to change and for one individual they were unable to graduate because the qualification was in her birth name/dead name and the university would not change it'.⁶²⁹

Submissions highlighted how this situation is particularly challenging for individuals who are in the process of transitioning. They often have not yet legally changed their name and gender on legal documentation. They are often forced to sign documents or receive services with their deadname.⁶³⁰

The Family Access Network noted that various organisations and businesses may continue to use a person's deadname. They gave an example of when seeking access to rental housing, the 'name on application may not match a person's gender presentation'.⁶³¹ Vixen effectively summarised:

[Trans and gender diverse] people often face inflexible systems which do not allow people to record chosen names, force trans and gender diverse people to be recorded by their legal sex at birth, and often will not be able to change their gender markers in systems.⁶³²

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ANROWS highlighted an example when one trans woman had an interaction with a department of housing. The individual provided identification with her preferred name and letters from medical practitioners noting her gender transition. Still, the department insisted that she sign with her 'male birth name'.⁶³³

Even with amendments to laws around legal recognition and identification documents, trans and gender diverse people have few protections against deadnaming.⁶³⁴ Organisations are not currently required to provide people the option of using a non-binary gender when information about them is recorded in the organisation's records.

When the SDA was amended in 2013 to provide protection against discrimination for trans and gender diverse people, a new exemption was introduced. This exemption recognised that many organisations had record keeping systems that only allowed people to be identified as male or female. Section 43 A(2) of the SDA says: 'Nothing in Division 1 or 2 makes it unlawful to make or keep records in a way that does not provide for a person to be identified as being neither male nor female.' This exemption was only ever intended to be temporary. The Explanatory Memorandum for the Bill noted:

The intention of these exemptions is to ensure that the new protections for gender identity and intersex status do not require a person or organisation to provide an alternative to male and female in any data collection or personal record. It will ensure that there is no requirement to amend forms as part of the new protections for gender identity and intersex status, which may be an onerous exercise for organisations.

The need for these exemptions may be reconsidered in the future, if organisations (both government and private sector) have revised their data collection and record keeping practices to allow for a person to identify as neither male nor female. For example, the Government is currently developing guidelines on gender recognition for departments and agencies. Changes as a result of these guidelines may mean those departments and agencies would no longer require this exemption.⁶³⁵

As noted above, those government guidelines were published in July 2013. It is now more than a decade since the amendments to the SDA commenced. In the Commission's view, it is time to repeal this exemption in the SDA.

Single-sex spaces

A few submissions voiced concern about potential abuses of self-identification laws and asserted that self-identification could lead to opportunistic offending by bad actors.⁶³⁶ Other submissions highlighted the continuing limits and denial of rights around legal recognition and the impact this has on trans and gender diverse people.⁶³⁷

Trans and gender diverse people may experience discrimination accessing and enjoying single-sex spaces.

A few submissions viewed self-identification laws and trans people accessing single-sex spaces as a threat to women's rights.⁶³⁸ For example, one submission stated:

I have always felt it was appropriate to refer to transwomen as women and to use feminine pronouns. Then I learnt about self ID and how easy it is now for a man to claim to be a woman, and, in the absence of any medical or surgical treatment, demand access to female spaces such as change rooms, associations, work roles and so on.⁶³⁹





Some submissions and organisations have raised concerns about how including trans people can affect other people's rights and sense of safety. The areas include accessing drug and alcohol services, as well as single-sex spaces such as bathrooms, changing rooms, shelters and prisons.⁶⁴⁰ Some commentators frame trans and gender diverse people – especially trans women – as predators who threaten others' safety.⁶⁴¹ These opponents of trans inclusion often call for policies that restrict access to certain spaces based on people's sex recorded at birth.

Women's Forum Australia referred to their submission to Queensland's Birth, Deaths and Marriages Registration Bill 2022. That submission stated:

Gender identities do not rape women, male bodies do. This fact, coupled with females' inherent vulnerability when it comes to their smaller size and strength, is one of

the key reasons men should not be allowed to identify into women's single-sex spaces and services, and why such spaces must be based on biological sex, not gender.⁶⁴²

An individual submission went further. It suggested that allowing trans and gender diverse people to access single-sex spaces would make it impossible to challenge criminal behaviour:

What we now have, is the people who would do harm to women and children, and people who have passive deviancies in their sexual arousals, that can simply walk into women's and children's spaces and at no point can they be challenged.⁶⁴³

An individual submission by a legal academic suggested that currently trans and gender diverse rights are:

'trumping' women's and girls' rights when there is a conflict. This is not resolved just by insisting that 'transwomen are women'. The conflict could be dealt with by allowing women's groups that are not publicly funded to choose whether to be inclusive of male-bodied persons.⁶⁴⁴

Surveys of the Australian population show majority support for trans and gender diverse people being allowed to self-identify and to access single-sex spaces that correspond to their affirmed gender.⁶⁴⁵ Evidence does not support the assertion that trans and gender diverse-inclusive policies increase risk of harm in gendered facilities and spaces (such as toilet facilities or changing rooms).⁶⁴⁶ A review of trans and gender diverse people's protections under Aotearoa New Zealand's *Human Rights Act 1993* conducted by Te Aka Matua o te Ture | Law Commission specifically noted:

More importantly, we have not identified any evidence in Aotearoa New Zealand or overseas of people who are transgender being significantly represented in offending statistics relating to crimes in public bathrooms and changing rooms. Nor have we found evidence of such offending statistics increasing in countries where anti-discrimination laws have been reformed.⁶⁴⁷

Scholarly research shows that trans and gender diverse people face multiple barriers to accessing gendered facilities and spaces, including risks of verbal, physical and sexual victimisation.⁶⁴⁸ Nonetheless, trans and gender diverse people's access to single-sex spaces continues to be an area of intense public debate.

Under the SDA, it is against the law to discriminate against a person because of their gender identity in particular areas of public life. This includes in the provision of goods, services and facilities. Excluding a trans woman from services or spaces that are for women would likely be unlawful discrimination. State and territory anti-discrimination laws contain similar protections.

The creation of single-sex spaces can also lead to discrimination against trans and gender diverse people. A noteworthy example is the 2024 Federal Court case *Tickle v Giggle*. This concerned indirect discrimination against trans woman Roxanne Tickle by an app (Giggle) that marketed itself as an online women's only space. Ms Tickle was excluded from the app based on her appearance. Ms Tickle's photo was reviewed and considered to not look sufficiently like a cisgender woman – and this amounted to indirect discrimination based on Tickle's gender identity.⁶⁴⁹ At the time of this report's publication, the case was under appeal.

The SDA allows for some exemptions in specific circumstances, but these are limited and must be justified under the law. The SDA also allows certain kinds of positive discrimination that have the purpose of achieving real equality between different groups including people of different genders. These actions are called 'special measures' and do not amount to discrimination.

The Commission may grant temporary exemptions to some provisions under the SDA. Sections 30–43 of the SDA provide permanent exemptions, and section 7D addresses special measures. Because any temporary exemption must be consistent with the objectives of the SDA, the circumstances in which it is necessary or appropriate to grant such exemptions are limited.

Temporary exemptions are for no more than 5 years. The Commission must make decisions in an accountable manner. This generally involves providing the opportunity for public comment on exemption applications before the Commission makes a decision. Guidance outlines criteria and procedures to support the determination process for temporary exemption applications. The guidelines identify a range of considerations, including:

- the objectives of the SDA
- relevant provisions of the SDA
- whether an exemption is necessary
- reasons for seeking the exemption
- submissions by interested parties.⁶⁵⁰

Identity documentation and travel

Obtaining accurate documentation in geographical areas that require identity verification presents specific challenges for trans and gender diverse people. Submissions provided evidence of administrative, financial and medical hurdles which often prevented trans and gender diverse people from acquiring necessary immigration documents. Submissions noted that inconsistencies in identity documents can result in detainment, denial of travel or accusations of identity fraud at official ports of entry and exit.⁶⁵¹

New technologies such as body scanners and facial recognition software also pose risks to trans and gender diverse people's privacy and security.⁶⁵² Several studies show that many trans and gender diverse individuals experience greater levels of stress and anxiety during travel, or limit or avoid international travel altogether.⁶⁵³

4. Being Able to Participate

Trans and gender diverse people come from all walks of life and have the right to participate in all domains of society. This means they have the right to participate in the economic, social and cultural life of Australia. The domains highlighted in this section are some of the more prominent areas where trans and gender diverse people have highlighted barriers to their participation. They are not an exhaustive list, and many of the challenges identified apply in other parts of Australian public life.

Recommendation 14:

The Australian Government should:

- a. amend section 37(1)(d) and repeal section 38 of the *Sex Discrimination Act 1984* (Cth) and make consequential amendments to the *Fair Work Act 2009* (Cth), as recommended by the Australian Law Reform Commission in its 2024 report [‘Maximising the Realisation of Human Rights: Religious Educational Institution and Anti-Discrimination Laws’](#)
- b. request the Australian Law Reform Commission to further review and make recommendations about how to amend the exemption for religious bodies under section 37(1)(d) of the *Sex Discrimination Act 1984* (Cth).

Recommendation 15:

State and territory governments should review and amend their anti-discrimination legislation to ensure that trans and gender diverse people have equal access to publicly funded services, including those provided by religious bodies.

Recommendation 16:

The Australian Government Department of Education should require LGBTIQ+ and trans and gender diverse representation on key advisory groups, committees and rapid reviews. The Department should also establish an LGBTIQ+ Youth Advisory Group to provide input into:

- a. education policy settings
- b. the role of teachers
- c. curriculum content
- d. targeted anti-bullying program support.

Recommendation 17:

Federal, state and territory education departments should review their current policies, practices and curricula to ensure that they support an inclusive model. This model should embed inclusion of trans and gender diverse students as part of teacher training and professional development for all staff across all levels of government funded education institutions.

Recommendation 18:

Educational institutions receiving government funding should have policies to prevent discrimination and harassment of trans and gender diverse students, staff and parents.

Recommendation 19:

The Australian Government should expand the positive duty in the *Sex Discrimination Act 1984* (Cth) to cover protected attributes outlined in sections 5A, 5B and 5C of the Act.

4.1 Religion

- There are a range of religious exemptions under anti-discrimination laws which affect trans and gender diverse people. Because religious institutions run many social welfare services – usually with government funding – trans and gender diverse people are often uncertain if they can access these programs.
- Some trans and gender diverse people are also people of faith, but they can face marginalisation in some religious institutions and contexts.
- While some religious institutions welcome trans and gender diverse people, others exclude. Some of the religious institutions which exclude also have leaders who use hate speech towards the trans and gender diverse community.
- Conservative religious groups which express sentiments against LGBTIQ+ and trans and gender diverse people are growing in Australia.

Relevant human rights laws and principles

- **Article 18 of the *International Covenant on Civil and Political Rights*:** states that ‘Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.’⁶⁵⁴
- **Article 18** also states: ‘Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.’⁶⁵⁵
- **Yogyakarta Principle 21 – The Right to Freedom of Thought, Conscience and Religion:** states that ‘everyone has the right to freedom of thought, conscience and religion, regardless of sexual orientation or gender identity. These rights may not be invoked by the State to justify laws, policies or practices which deny equal protection of the law, or discriminate, on the basis of sexual orientation or gender identity.’⁶⁵⁶
- **Yogyakarta Principle 21** also says that States shall ‘Ensure that the expression, practice and promotion of different opinions, convictions and beliefs with regard to issues of sexual orientation or gender identity is not undertaken in a manner incompatible with human rights.’⁶⁵⁷

Affirming trans and gender diverse people of faith

There is little representative data on trans and gender diverse people in Australia's religious and spiritual beliefs. A small survey of multicultural and multifaith LGBTIQ+ Australians reported that 45% (48 respondents) were people of faith. The trans and gender diverse respondents identified themselves as Hindu, Christian, Jewish, Muslim and one just as 'spiritual'.⁶⁵⁸ The Forcibly Displaced People Network's 'Inhabiting Two Worlds At Once' report found that out of 21 trans and gender diverse respondents, 5 identified their religion as Islam, 3 as Buddhism, one Christianity, one Hinduism and one Judaism.⁶⁵⁹ Although these are small sample sizes, they show that trans and gender diverse people come from, and practice, all religions.

Trans and gender diverse people of faith can face marginalisation from both religious institutions and the LGBTIQ+ community. Reverend Josephine Inkpin, a trans woman who is an ordained Anglican priest and theologian, summarises: 'in the queer community, there still remains too much knee-jerk opposition to, and lack of real understanding of, people of faith. This feeds the right's wedging and weaponizing [of religion].'⁶⁶⁰

One individual submission from a trans Christian who for 2 years was a church pastor stated:

There are many TGD people coming into their identity as TGD within their own churches, Christian schools, faith-based communities and families;

There are Christian parents and families who want to foster a loving environment for their TGD children, and seek out support from beyond their own faith communities or school.⁶⁶¹

Religion can provide protective mental health benefits for trans and gender diverse people. Indeed, Australian researchers have shown that 'With good pastoral care, faith and membership in a religious community can be key sources of protection and strength for LGBTQA+ people.'⁶⁶² In a systematic

review of adolescents who identify as trans and gender diverse, researchers concluded that while 'religiously motivated stigma from parents or communities resulted in worsened mental health outcomes ... intrinsic religiosity appeared to correspond to improved psychological well-being'.⁶⁶³

Religious interpretations of gender diversity

The UN Office of the High Commissioner for Human Rights (OHCHR) notes that most religious traditions do not exclude trans and gender diverse people.⁶⁶⁴ Several religions commonly perceived as opposed to trans and gender diverse rights have more complex positions or interpretations. For instance, some interpretations of Christianity support ideas about gender, gender diversity and equality.⁶⁶⁵ Equal Voices is 'an organisation advocating for the rights and inclusion of TGD people within the Australian Church'. Their submission stated:

Some churches celebrate TGD Christians and create places where people's whole identities can be lived – these places have all gender bathrooms, use gender neutral language in services and scripture readings, ordain TGD people as pastors and leaders, do not segregate groups based by gender.⁶⁶⁶

Submissions to the federal parliamentary inquiry into the Religious Discrimination Bill 2021 also demonstrated acceptance of trans and gender diverse people across multiple faiths. For example, the Buddhist Council of NSW submitted that 'Buddhism affirms equality of the sexes, diverse genders and sexual orientations'.⁶⁶⁷ Quakers Australia submitted:

Quaker organisations seek to treat all people equally and celebrate the gifts that diversity in age, race, ability, sex, gender and sexual orientation bring to us all. We have no desire to take up the 'sword' of discrimination against our fellow human beings.⁶⁶⁸

The Anglican Church of Australia Public Affairs Commission stated: 'From an Anglican point of view, LGBTIQ+ Anglicans

are members and leaders in our church, so preferences and benefits are just as much for our LGBTIQ+ members as others.’⁶⁶⁹

There is also emerging scholarship that challenges transphobia within Islam. These advocates and scholars emphasise that ‘Islam has always taken sides with the oppressed rather than with the oppressor since the day of its establishment, [including] taking a stand against transphobia, xenophobia and misogyny’.⁶⁷⁰ Through revisiting Islamic texts, their historical context and the meanings of the language, these scholars and advocates show ways that Islam can embrace trans and gender diverse people.⁶⁷¹

These examples show how religion can affirm and support trans and gender diverse people. However, trans and gender diverse people have reported mixed experiences with religious institutions. For example, the *Private Lives 3* study provides data about LGBTIQ+ respondents’ religious identities. Although the data did not disaggregate trans and gender diverse people, it still provides insights into their experiences with religion. The study found:

Participants who indicated a religion other than ‘no religion’ and reported belonging to a religious/spiritual community were asked to what extent they feel it is LGBTIQ inclusive/friendly. Of the 1,236 participants who identified as being religious and who indicated that this question was relevant to them, one third (35.1%; n = 434) responded ‘very’ or ‘extremely’, 20.6% (n = 254) ‘somewhat’, 22.6% (n = 279) ‘a little’ and 21.8% (n = 269) ‘not at all’.⁶⁷²

A few submissions highlighted how many trans and gender diverse Christians have fraught relationships with their faith and face discrimination.⁶⁷³ The same trans Christian pastor quoted earlier also highlighted that ‘many TGD people cannot practice their faith within their own churches, or the church of their choosing, within Australia, as these faith communities subject TGD people to discrimination, suppression of identity (conversion practices) and rejection’. The submission also noted a ‘lack of adequate training for religious leaders in supporting TGD people – particularly including lived experience and evidence-based information’.⁶⁷⁴

Religiously motivated hate speech and vilification

Some submissions noted that religious institutions may do more than just exclude trans and gender diverse people. Some religious leaders and followers spread hate speech towards the community, justifying it on religious grounds.⁶⁷⁵ Researchers commissioned by the Tasmanian Government Department of Communities surveyed 825 LGBTIQ+ Tasmanians. They found:

Three groups of people were identified as perpetrating hate speech against LGBTIQ+ Tasmanians in the current moment. The most mentioned of the three was religious organisations. LGBTIQ+ Tasmanians hated how ‘the views of these church leaders are often expressed in local media and that is very upsetting’. They identified a range of different groups (such as the Australian Christian Lobby, Catholic leaders, the preachers in shopping malls) as perpetrating hate speech against them in public spaces.⁶⁷⁶



Two submissions specifically mentioned Sydney-based group Christian Lives Matter as a cause for concern for trans and gender diverse people.⁶⁷⁷ Described as ‘a group of conservative Catholics, many of them from the Maronite church’, Christian Lives Matter has over 40,000 members across Facebook and Instagram. They use human rights language by arguing they are the victims of discrimination, pitting LGBTIQ+ rights against their religious rights.⁶⁷⁸ Reflecting on incidents during the 2023 World Pride Conference and Sydney Gay and Lesbian Mardi Gras, Anti-Discrimination NSW noted that ‘queer affirming faith communities faced homophobic vandalism and assaults on queer-inclusive faith spaces’.⁶⁷⁹

Violence during Sydney World Pride 2023

During and immediately after Sydney World Pride 2023, there was a series of anti-LGBTIQ+ incidents related to religion. On 2 occasions, vandals damaged rainbow steps at Pitt Street Uniting Church.⁶⁸⁰

A few weeks later, people associated with Christian Lives Matter attacked the group Community Action for Rainbow Rights. Members of that group were peacefully protesting a speech by then One Nation leader Mark Latham outside a church. Videos had circulated on WhatsApp days before the attack. The messages urged people to ‘drag’ the protesters ‘by their fucking hair’ and ‘defend our family values’. Both the Catholic Archbishop of Sydney and the Maronite Eparchy of Australia, New Zealand and Oceania condemned the violence.⁶⁸¹

Religion and conversion practices

Some submissions also criticised some religious institutions’ support for conversion practices and the spread of misinformation (see section 3.3). As one submission noted, even beyond formal conversion practices, ‘pastoral care often pressures TGD people to suppress their identities’.⁶⁸²

In Western Australia in 2021, a self-proclaimed supporter of ‘sound methods of conversion therapy’ visited churches to campaign against the banning of conversion practices.⁶⁸³

Rainbow Futures WA’s submission explained that the tour:

visited eight churches in the Perth CBD, Geraldton Anglican Cathedral and Albany Baptist Church for two events. They claimed to ‘tell stories of hope, vision and dignity beyond LGBTQ+’ but have been more accurately labelled as ‘gay conversion practice’ events.⁶⁸⁴

These reported examples of hate speech and promotion of conversion practices contribute to popular perceptions that many religious institutions are hostile to trans and gender diverse people. These perceptions affect all trans and gender diverse people – whether they are people of faith or not – because of the influence religious institutions and organisations have in Australia.

Exemptions under anti-discrimination laws

All federal, state and territory anti-discrimination laws contain some exemptions for religious bodies. Section 37(1) of the SDA provides an exemption for religious bodies to lawfully discriminate in certain contexts. For instance, provisions of the SDA do not apply to ordination, training or education of religious leaders and the appointment of people to perform religious observances. This exemption is generally uncontroversial.

What has attracted more attention from LGBTIQ+ activists and their allies is the exemption under section 37(1)(d) of the SDA. It applies to:

any other act or practice of a body established for religious purposes, being an act or practice that conforms to the doctrines, tenets or beliefs of that religion

or is necessary to avoid injury to the religious susceptibilities of adherents of that religion.⁶⁸⁵

Under this exemption, religious institutions and their incorporated bodies may lawfully discriminate on the grounds of sex, sexuality, gender identity and intersex status. This includes religious bodies which provide critical social services – often with government funding – in areas such as healthcare and welfare.

There is one area of service delivery where the exemption does not apply: federally-funded aged care.⁶⁸⁶ This exemption was included as part of the amendments to the SDA in 2013 because the Australian Government had received ‘significant feedback ... of the discrimination faced by older same-sex couples in accessing aged care services run by religious organisations, particularly when seeking to be recognised as a couple’.⁶⁸⁷

As discussed in section 4.2, section 38 of the SDA contains other exemptions for religious educational institutions. State and territory anti-discrimination laws also contain exemptions for religious bodies. The breadth of those exemptions varies across jurisdictions.



Many submissions discussed the religious exemptions under federal, state and territory anti-discrimination laws.⁶⁸⁸ For example, Rainbow Futures WA noted that the *Equal Opportunity Act 1984* (WA) ‘is filled with special carve-outs for religious bodies and educational institutions, allowing them to discriminate against trans and gender diverse people’.⁶⁸⁹ One LGBTIQ+ advocate called for the removal of these ‘special privileges that allow other publicly funded religious organisations to discriminate, across health, disability, aged care[,] housing and other essential community services’.⁶⁹⁰

Other submissions noted the physical harm that religious exemptions under anti-discrimination laws cause to the everyday lives of trans and gender people. This includes harm inflicted in education,⁶⁹¹ health,⁶⁹² and work.⁶⁹³ For example, ACON expressed concerns that the section 37(1)(d) religious exemption under the SDA is ‘allowing religiously affiliated hospitals and healthcare workers to refuse care to trans people on religious grounds’.⁶⁹⁴ The Gender Centre stated:

The ongoing influence of religious and moral judgement continues in health policy and funding decisions; research design, approval, and funding; education policies and curricula; and many other sectors that influence the health and wellbeing of LGBTIQASB+ [LGBTIQ+, Sistergirl and Brotherboy] children.⁶⁹⁵

Research from Equality Australia explored publicly available information from Australia’s 70 largest faith-based service providers. They concluded that ‘Almost 1 in 10 of Australia’s largest faith-based service providers publicly discriminate against LGBTQ+ people, with a further 4 in 10 unclear in their position on LGBTQ+ inclusion’.⁶⁹⁶ Although it is unknown how often religious bodies exercise their exemptions and discriminate against trans and gender diverse people, they have the right to do so. This may impact if and how trans and gender diverse people access services from religious-affiliated bodies.⁶⁹⁷

4.2 Education

- Under human rights laws and principles, everyone has the right to education.
- Trans and gender diverse people face significant social marginalisation in education facilities at all levels. Young trans and gender diverse people often withdraw from school due to feeling unsafe and unwelcome.
- Classroom teachers, school executives and administrative or support staff play a vital role in trans and gender diverse children and young people’s education experience. Best practice requires dedicated teacher training and implemented school policies. Everyone should also have access to age-appropriate educational material on sexual, biological, physical and psychological diversity.
- Exemptions for educational institutions established for religious purposes under section 38 of the SDA are a significant barrier to inclusive education.

Relevant human rights laws and principles

- **Article 13 of the *International Covenant on Economic, Social and Cultural Rights*:** ‘The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.’
- **Article 13(3) of the *International Covenant on Economic, Social and Cultural Rights*:** ‘parents and legal guardians have liberty to choose the school for their children.’⁶⁹⁸
- **Article 18(4) of the *International Covenant on Civil and Political Rights*:** ‘parents or legal guardians have the liberty to ensure that their children receive a religious and moral education that is in conformity with their own convictions’.⁶⁹⁹
- **Articles 28 and 29 of the *Convention on the Rights of the Child*:** these articles recognise all children’s right to education. Article 28 recognises ‘the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity’. Article 29 states that education should be directed toward:
 - The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations
 - The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin.⁷⁰⁰

- **Yogyakarta Principle 16 – The Right to Education:** states that everyone has the right to education, no matter their sexual orientation or gender identity. It also says that States shall:
 - Ensure that education methods, curricula and resources serve to enhance understanding of and respect for, inter alia, diverse sexual orientations and gender identities, including the particular needs of students, their parents and family members related to these grounds.
 - Ensure that laws and policies provide adequate protection for students, staff and teachers of different sexual orientations and gender identities against all forms of social exclusion and violence within the school environment, including bullying and harassment.⁷⁰¹

Inclusive education

In 2019, all federal, state and territory education ministers signed the Alice Springs (Mparntwe) Education Declaration. It commits all Australian governments to promote excellence and equality in education. It also states that governments will work with educators to:

provide all young Australians with access to high-quality education that is inclusive and free from any form of discrimination ... [and] ensure that education promotes and contributes to a socially cohesive society that values, respects and appreciates different points of view and cultural, social, linguistic and religious diversity.⁷⁰²

In addition to non-discrimination, education research outlines the effectiveness of actively LGBTIQ+ affirmative schools. The affirmative approach focuses on ‘the sum effects of a school’s academic atmosphere, community of interpersonal relationships, physical and emotional safety, and institutional structures’.⁷⁰³

Australian federal, state and territory education departments do not provide information about affirmative education. However, the Aotearoa New Zealand Ministry of Education’s website ‘Supporting LGTBIQA+ students’ provides advice about how to make schools affirmative. The website includes:

- guidance on how to build knowledge about LGBTIQ+ identities
- the design of inclusive whole-school systems and processes

- ways to address immediate environmental and social needs
- tips to develop an inclusive classroom culture and curriculum.⁷⁰⁴

Ensuring safety, inclusion and affirmation requires dedicated school policies. Adequate training for teachers has a significant impact on the livelihoods of trans and gender diverse young people. Equality Tasmania, the state’s leading advocacy group for LGBTIQ+ people, noted in its submission: ‘there is a decreasing rate of complaints from the public school system due to an increase in teacher training and student pride groups’.⁷⁰⁵

Debates over inclusive education

In Australian schools, policies to support students with diverse sexualities and genders are ad hoc, uneven and unregulated. Teacher training to create affirming environments and support trans and gender diverse students is also patchy.⁷⁰⁶ In the absence of state-led strategies, it is up to other government departments, the community and non-profit sector to offer resources to support affirmative education.⁷⁰⁷ Individual schools or sector leaders (i.e. religious school bodies) decide whether they wish to adopt these resources.

When community and non-profit groups have offered resources to schools, they have faced significant pushback. Melbourne Bisexual Network wrote how groups and individuals critical of trans and gender diverse rights were:



Seeking to prevent young people from accessing information about TGD people, by censoring or manipulating curriculum;

Seeking to exclude TGD children and young people from schools altogether;

Threatening or terminating the employment of teachers who are TGD or who provide space for non-traditional views on gender.⁷⁰⁸

Several submissions discussed the rise of misinformation and disinformation occurring in and about schools. They were especially concerned with how false information portrays trans and gender diverse young people.⁷⁰⁹ The Victorian Pride Lobby said that ‘far-right targeting of the LGBTIQ+ community in Victoria is a long running issue, the root of which can be traced back to the campaign against the Safe Schools Coalition in 2016’.⁷¹⁰

In many instances this vocal opposition has led schools to cease promoting affirmative education. The most high-profile example of this was the Safe Schools Coalition. This was a program to support teachers to affirm LGBTIQ+ children and young people in schools. In 2016 conservative politicians and media ran an effective campaign of misinformation and disinformation. Four submissions cited the campaign against the Safe Schools Coalition as having a negative impact on trans and gender diverse people.⁷¹¹

Safe Schools Coalition

This was a program that began in Victoria in 2010 and in 2013 received federal funding to go national. The Safe Schools Coalition offered resources which teachers and school administrators could draw on to discuss sexual and gender diversity. Safe Schools had 2 principal aims: to combat bullying, and to affirm LGBTIQ+ children and young people.

In early 2016, conservative politicians and media began campaigning against the Safe Schools Coalition. They argued that the program was ‘sexualising’ young people and was inappropriate. Despite a government review saying the program was appropriate, politicians and the media continued to attack the program. Staff from organisations which were part of the Safe Schools Coalition reported harassment and threats of violence.

Every state and territory government except Victoria ended the program when the funding expired.⁷¹²

Parents’ rights

A minority of submissions expressed concern that inclusive education may conflict with parents’ rights.⁷¹³ For instance, Parents of Adolescents with Gender Distress – Victoria (PAGD) worried about a ‘systemic disregard’ for their right to be ‘protected by society and the State’. PAGD argued that:

contrary to the principles of both the Education and Training Reform Act 2006 [Vic] and the Child Youth and Families Act 2005 [Vic], school personnel have intentionally excluded and alienated parents from discussions regarding their child’s gender distress and mental wellbeing.⁷¹⁴

PAGD further claimed that schools ‘implement “social transition” without consulting parents’.⁷¹⁵ An individual submission similarly described ‘school policies which allow a student to socially transition at school without the parent’s knowledge or consent’.⁷¹⁶

Other submissions have raised concerns that the term ‘parents’ rights’ is being used as part of a campaign against LGBTIQ+ inclusive education and policies in schools. Research on far right and populist movements in Australia notes that ‘parental rights discourse depicts queer adults as predatory figures aiming to corrupt young people and erode the “natural” family structure seen as the foundation of “Western” society’.⁷¹⁷ Equality Tasmania described ‘parental rights’ discourse as a co-option of human rights language which ‘attempts to stamp out LGBTIQ+ inclusion initiatives in schools’.⁷¹⁸

Article 18(4) of the ICCPR and Article 13(3) of ICESCR focus on the liberty of parents with respect to the education of their children. These liberties sit alongside the rights of children.

Research shows that what scholars commonly refer to as the ‘anti-gender movement’ (see section 2.1) often targets policies and educational programs that promote gender equality, LGBTIQ+ rights and gender diversity. The movement opposes any sex education programs that include discussions of gender identity and sexual orientation.⁷¹⁹

Evidence shows that a majority of Australian parents do not agree with this perspective. Instead, the majority support inclusive sex education programs. A nationwide, representative survey of parents of children attending government schools (N = 2,093) found that:

The Australian media deploys the ‘conservative parent argument’ against gender and sexuality diversity-inclusive curricula [but] ... Over 80% of parents supported gender and sexuality diversity-inclusive RSE [Relationships and Sex Education] topics across primary and secondary government schooling. Approximately 60% of Australian parents endorsed a whole-school approach to gender and sexuality diversity-inclusivity in government schools.⁷²⁰

Submissions from trans and gender diverse people, activists and parents expressed concerns about schools which lacked comprehensive and inclusive sex education.⁷²¹ ARCSHS said that the ‘educational curriculum

rarely includes trans identities or histories, further contributing to the erasure of trans experiences’.⁷²²

Fundamentally, children have the right to feel safe being themselves. Part of that safety means being in a school environment that affirms them and where all children learn that being trans or gender diverse is part of the diversity of humanity.

Bullying, harassment and marginalisation

Many submissions highlighted that trans and gender diverse people face significant social stigmatisation and marginalisation in education settings. This happens at all levels, in early childhood, primary, secondary and tertiary institutions.⁷²³ The hostility and discrimination against trans and gender diverse people includes verbal and physical attacks. Equality Australia’s submission included this quote from a non-binary student:

I have been a victim of targeted discrimination at school and online since 2022, I am confident it still happens but not to my face. I had been getting misgendered, people would say my name wrong on purpose, they’d find my personal Facebook and make TikTok account[s] with offensive usernames and my deadname. I have also at one stage been told to kill myself repeatedly by one student.⁷²⁴

A psychologist who specialises in LGBTIQ+ mental health highlighted emerging research about the rise of masculine supremacy groups and influencers like Andrew Tate. The submission linked these groups and influencers to the promotion and normalisation of transphobia and queerphobia in schools.⁷²⁵ This suggests that discrimination against trans and gender diverse children and young people is part of a broader challenge of sexism and gender inequality confronting schools.⁷²⁶

Bullying and harassment – be it from peers or school staff – can lead to multiple poor outcomes for trans and gender diverse students.

Absence and connectedness

Two academics from Western Sydney University who research schools and wellbeing outcomes highlighted that ‘TGD students’ sense of connectedness to school [is] significantly lower than reported by mainstream high schoolers’.⁷²⁷ This is important because school connectedness is a significant predictor of educational success and attainment.⁷²⁸

Several submissions noted how discrimination and marginalisation within schools contribute to absence rates. The advocacy organisation Parents for Transgender Youth Equity said ‘that it is not unusual for TGD children to be unable to attend school for a period of time, which could be weeks or years, due to their experiences at school’.⁷²⁹ The Royal Children’s Hospital Melbourne submission noted that ‘trans youth are often unable to learn in traditional school settings, that remain unsafe’.⁷³⁰ This means trans and gender diverse children and young people are more likely to terminate education altogether.⁷³¹

Leaving school

Other submissions linked bullying, harassment and exclusion in schools with trans and gender diverse young people’s increased rates of homeschooling or discontinuing education altogether.⁷³² Parents for Trans Youth Equity gave the example of one parent who wrote:

My child stopped attending school midway through Year 3. I spent that 6 months struggling to find another school, then I realised that there was no school for us.⁷³³

Sexual harassment

At university, trans and gender diverse students are at higher risk of sexual harassment. The 2021 National Student Safety Survey found that 14.7% of transgender and 22.4% of non-binary survey respondents experienced sexual harassment in the past 12 months. This compared to 10.5% of cisgender women and 3.9% of cisgender men students.⁷³⁴

Role of education staff

Adults in schools – be they teachers, administrators or other workers – play crucial roles. They may take steps to prevent bullying and harassment, to respond to it, or to enable it. An audit of publicly available policy guidance for Australian government schools found that ‘educators often do not have the necessary supports or guidance in relation to addressing GSD [gender and sexuality diverse] biased-based bullying or providing relevant curriculum content inclusions’.⁷³⁵

Submissions reinforced the importance of how adults handle trans and gender diverse issues in schools. Teachers, administrators and other staff can bring their own prejudices. Even those who want to be supportive often lack comprehensive training or face barriers due to school policies or curriculum.⁷³⁶ Researchers who work on school inclusion for trans and gender diverse children and young people noted that:

parents of TGD students described educators who were unfamiliar with gender diversity and reluctant to acknowledge or affirm this – both at the broad conceptual level, as well as with respect to their child’s gender identity – with ramifications for their child’s wellbeing and desire to remain at school.⁷³⁷

Parents for Trans Youth Equity quoted this parent who sought school support to affirm their child’s gender:

I said to the [school] counsellor[,] look she’s you know a kindy kid, she’s changing uniform and I’m worried about her being bullied. If she needs someone to talk to can she come to you? And she said ‘I’m very busy and this isn’t my field of expertise’.⁷³⁸

The lack of school policies and procedures pushes responsibility for trans and gender diverse issues onto parents. A researcher and psychotherapist who regularly works with trans and gender diverse young people described parents having to advocate for ‘their children to be respected and included in school communities, particularly regarding toilet access, and use for correct names and pronouns’.⁷³⁹ Other researchers reported



that parents had to work hard to make schools accommodate their children's needs, 'particularly with respect to administrative recognition of their child's name ... and desired elements of the school uniform'.⁷⁴⁰

Religious schools and section 38 of the SDA

A large proportion of the Australian educational workforce works in schools affiliated with religious institutions.⁷⁴¹ Many submissions were concerned with the right of religious educational institutions and private schools to discriminate against students and staff on the basis of sexual orientation and gender identity.

The SDA and state and territory anti-discrimination laws protect students and staff in educational institutions. *The Fair Work Act 2009* (Cth) also prohibits discrimination based on sexual orientation and gender identity in employment settings. These protections apply to teachers and other education staff.

However, section 38 of the SDA grants exemptions to 'educational institutions established for religious purposes'. In order to qualify for the exemption, the institution must be conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed.

Sections 38(1) and (2) permit these institutions to discriminate in decisions about the employment or dismissal of employees and contract workers on the grounds of sex, sexual orientation, gender identity, marital or relationship status or pregnancy. Section 38(3) permits these institutions to discriminate against students or prospective students on the grounds of sexual orientation, gender identity, marital or relationship status or pregnancy. These provisions permit discrimination when the educational institutions carry out the conduct in good faith to avoid injury to the religious susceptibilities of adherents of that religion or creed.⁷⁴²

In summary, section 38 means that religious educational institutions are exempted from important anti-discrimination protections in the SDA dealing with employment and education. This means it can be lawful for them to discriminate against trans and gender diverse students, contractors and staff.

Several submissions commented on the negative consequences of section 38. Equality Australia explained:

Section 38 of the *Sex Discrimination Act 1984 (Cth)* allows religious educational institutions to expel a student or fire a teacher simply because they are transgender or gender diverse, among other attributes. Our national report on LGBTQ+ discrimination in faith-based schools found that there is a systematic suppression of positive and public expressions of LGBTQ+ identities and lives in religious schools in Australia, with independent schools more likely to be discriminatory rather than affirming places for LGBTQ+ people.⁷⁴³

As Victoria Legal Aid's submission noted, the broad exemptions under section 38 apply to a range of institutions all the way from early childhood education centres through to schools, colleges and universities.⁷⁴⁴

In March 2024, the Commonwealth Attorney-General tabled the Australian Law Reform Commission's review into Religious Educational Institutions and Anti-Discrimination Laws. This report gave practical advice for how to repeal section 38 of the SDA and amend section 37(1)(d). The proposed amendments would make it unlawful for religious educational institutions to discriminate based on protected attributes (including gender identity), while ensuring that these institutions could continue to uphold their beliefs.⁷⁴⁵ The Australian Government has indicated it will not proceed with any proposed amendments without bipartisan support.⁷⁴⁶

Religious schools and exemptions to state and territory anti-discrimination laws

State and territory anti-discrimination laws also have some exemptions for religious schools. Several submissions raised concerns about these exemptions.⁷⁴⁷ The nature of state and territory religious exemptions vary. Some are broad like the federal exemption. For instance, Anti-Discrimination NSW's submission commented on the *Anti-Discrimination Act 1977* (NSW) having broad exemptions:

ADNSW [Anti-Discrimination NSW] supports a review of the scope and breath of the exceptions for 'private educational authorities' in the ADA [*Anti-Discrimination Act 1977*]. For example, sections 38C(3)(c) and 38K(3) allow private educational institutions to discriminate in areas of employment and education on the grounds of transgender status.⁷⁴⁸

In October 2024, the NSW Government updated some of its legislation relating to LGBTIQ+ rights. Early drafts of the bill would have narrowed some of the anti-discrimination exemptions for religious schools and updated language to protect all LGBTIQ+ people from discrimination. The Government stripped these sections from the bill to secure parliamentary support. As a result, part 3A of the *Anti-Discrimination Act 1977* (NSW) (sections 38C and 38K), which outlines unlawful discrimination on 'transgender grounds', continues not to apply to private educational authorities. The *Star Observer* summarised that in NSW: 'religious schools and other institutions can fire, expel, or refuse to work with LGBTIQ+ people based solely on their sexual orientation or gender identity'.⁷⁴⁹

Other state and territory religious exemptions are narrower, and some state and territory laws have different exemptions for students and staff. The narrowest exemptions in the ACT, Tasmania and Victoria only allow religious educational institutions to discriminate when it relates to roles or activities where the religious belief or practice is an inherent requirement, such as clergy.⁷⁵⁰

The Northern Territory had similar narrow exemptions, but in October 2025 the Northern Territory Government amended the *Anti-Discrimination Act 1992 (NT)* to broaden religious exemptions.⁷⁵¹ This was the first time an Australian government extended, rather than narrowed, religious exemptions to anti-discrimination law.

Research has found that LGBTIQ+ employees experience discrimination where exemptions exist. For example, teachers 'in NSW faith-based schools experienced organisational discrimination that was legal according to NSW legislation. They had no job security and no recourse to claims of wrongful termination of employment due to discrimination'.⁷⁵²

Inconsistencies in state and territory versus federal laws

The different approaches to religious exemptions have, in some jurisdictions, created a clash between state and territory versus federal law. This has come to public attention especially in Tasmania and Victoria. Representatives of educational institutions established for religious purposes have argued publicly that state anti-discrimination laws do not apply *because* Commonwealth

law overrides state laws. In Victoria, this is the subject of a court case where a non-binary teacher sued the Melbourne Archdiocese Catholic Schools over discrimination.⁷⁵³

In Tasmania, the Executive Director of Catholic Education Tasmania appeared before a state parliamentary inquiry into discrimination and bullying in schools. He said that protections under the *Anti-Discrimination Act 1998 (Tas)* against discrimination on the basis of sexual orientation and gender identity did not apply where there was an exemption under federal law. He cited section 38 of the SDA and said: 'If there's a conflict between state law and federal law on a particular matter, federal law always abides, overrules the state law'.⁷⁵⁴

It remains to be seen how courts would interpret the relevant state and federal anti-discrimination laws. The current situation leaves confusion, which can enable discrimination. Indeed, Equality Tasmania expressed the view that 'faith-based schools are prosecuting a crusade against "gender ideology" which demonises gender-affirming practices'.⁷⁵⁵ Amending or repealing section 38 of the SDA could resolve the inconsistencies. Otherwise, it will be up to a court to determine which law applies.



4.3 Employment

- Discrimination in the workplace is a pervasive issue which contributes to economic disadvantage faced by trans and gender diverse people.
- Discrimination in the workplace can be direct (i.e. bullying someone because they are trans or gender diverse) or indirect (i.e. requiring someone to select binary gender options on documents).
- Evidence shows that the most effective strategies move beyond preventing discrimination to more proactive organisation-wide strategies to affirm trans and gender diverse people in the workplace.

Relevant human rights laws and principles

- **Articles 6 and 7 of the *International Covenant on Economic, Social and Cultural Rights***: outline the right to work in favourable conditions:
 - **Article 6.1**: ‘States Parties are to recognise the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.’
 - **Article 7b**: ‘States Parties are to recognise the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular ... safe and healthy working conditions.’⁷⁵⁶
- **Yogyakarta Principle 12 – The Right to Work**: states that ‘Everyone has the right to decent and productive work, to just and favourable conditions of work and to protection against unemployment, without discrimination on the basis of sexual orientation or gender identity’. The principle also contains provisions directing States to take necessary measures to eliminate and prohibit discrimination in employment and to ensure equal employment and advancement opportunities in the public service.⁷⁵⁷

Trans and gender diverse employment experiences

There is limited Australian data on trans and gender diverse people's employment numbers and experiences. Even when workplaces or studies collect data, many trans and gender diverse people often hide their gender identity for safety reasons. The 2025 Australian Workplace Equality Index (AWEI) Employee Survey found that 52.7% of trans and gender diverse respondents were open about their gender identity to all or most of their colleagues, while 47.2% were only open to a select few or to nobody at work. This represented a small increase on 2024 and earlier results.⁷⁵⁸

The data that exists about trans and gender diverse people's experiences in the Australian workforce paints a grim picture. *Private Lives 3* found that 46.5% of trans men (N = 138), 46.3% of non-binary people (N = 442) and 42% of trans women (N = 118) reported an income below the poverty line.⁷⁵⁹ A 2018 survey of 928 self-identified trans and gender diverse people in Australia found that:

The unemployment rate of 19% was three times that of the Australian general population rate of 5.5% in May 2018 and well above the youth unemployment rate (12.2%). Notably, 33% of respondents perceived discrimination in employment. Unemployment may also occur due to difficulty with name and identity documents, discrimination in basic housing and health care, and the impact of mental health conditions such as depression and anxiety on an individual's ability to seek or maintain employment.⁷⁶⁰

The TRANSform longitudinal study of 807 trans and gender diverse people found that, when compared to the general Australian population, the participants experienced 4 times' higher rate of unemployment. Furthermore, of those who were working:

- 1 in 5 (19%) were working multiple jobs out of necessity
- 1 in 5 (21%) were working in a job below their skill level
- 1 in 6 (18%) wanted and were available to work more hours than they were currently working.⁷⁶¹

Importantly, the limited data that does exist about trans and gender diverse people's employment experiences is not intersectional. That is, it does not break down the distinct experiences and challenges facing trans and gender diverse people from diverse backgrounds including First Peoples, culturally and racially marginalised people, age or people with disability.

Many submissions by trans and gender diverse individuals and non-government organisations suggested that transphobia contributed to hiring bias and unequal opportunities. However, they also noted that this was hard to prove.⁷⁶²

Research shows that trans and gender diverse people in Australia experience barriers in workplaces at both institutional and interpersonal levels.⁷⁶³ The Family Access Network's submission suggested that the growth in transphobic rhetoric in recent years has made it socially acceptable to express views against trans and gender diverse people and rights in the workplace.⁷⁶⁴ Your Community Health's submission stated: 'In our experience providing trans healthcare and a trans specific WorkSafe program, we hear about the types of discrimination trans people experience in the workplace, including physical threats and verbal harassment, malicious gossip, deliberate misgendering, [and] transphobic jokes'.⁷⁶⁵

Research shows that trans and gender diverse people face some of Australia's highest rates of work-related gendered violence, discrimination and harassment.⁷⁶⁶ According to research conducted by the International Labour Organization:

Many transgender respondents reported being rejected at the job interview stage simply because of their appearance. Problems within the workplace include the inability to obtain identity documents that reflect their gender and name, reluctance of employers to accept the way they dress, being discouraged from using bathrooms appropriate to their gender, and increased vulnerability to bullying and harassment by workmates.⁷⁶⁷



In the TRANSform longitudinal study, 1 in 20 participants (6%) reported being physically threatened, harassed or assaulted at work in the past 12 months. Furthermore, 1 in 15 (7%) had left a job in the past 12 months because they did not feel safe.⁷⁶⁸

Trans and gender diverse people also experience greater rates of workplace sexual harassment. ANROWS reported that in a survey of LGBTQ young people, '80% of transgender (binary and non-binary inclusive) participants had experienced WSH [workplace sexual harassment], which was significantly higher than the 74% of cisgender participants who had experienced WSH'. Thirty per cent had experienced 'intrusive comments about their anatomy'.⁷⁶⁹

'Time For Respect', the fifth national survey on sexual harassment in Australian workplaces, outlined the Commission's findings on the prevalence, nature and reporting of sexual harassment in Australian workplaces. The survey was conducted in 2022 with over 10,000 Australians. The survey did not distinguish trans and gender diverse people, except for those who indicated their gender was non-binary. Of the 62 non-binary respondents:

- 99% had been sexually harassed at some point in their lifetime
- 67% had been sexually harassed at work in the last 5 years.⁷⁷⁰

Impacts of workplace discrimination and harassment

Data from the TRANSform longitudinal study shows that workplace experiences can be positive for trans and gender diverse people. Of the 807 surveyed participants, 9 in 10 (88%) 'agreed' or 'strongly agreed' that they were treated fairly and respectfully by their supervisors, and 9 in 10 (89%) 'agreed' or 'strongly agreed' that they were treated fairly and respectfully by their coworkers.⁷⁷¹ That study and others also showed the challenges facing those trans and gender diverse people who are not being supported or respected at work.

Research shows that some trans and gender diverse people avoid mistreatment at work by hiding their gender identity, refraining from asking their employer to use their correct pronouns or quitting their jobs.⁷⁷²

Discrimination may come not only from colleagues, but also from clients or customers. A submission from 2 Western Sydney University education academics discussed harassment that teachers face from students, which affected their wellbeing:

Interviews with a small cohort of TGD teachers revealed the added injury of experiencing harassment by students, particularly without recognition of this or support from school leadership, and the impact of these experiences on these educators' confidence and desire to remain in the classroom longer term (Ullman, 2020).⁷⁷³

The 2025 AWEI Employee Survey found:

- 13% of trans and gender diverse respondents reported workplace incivility behaviours to their manager, grievance officer or equivalent person
- 15.6% of trans and gender diverse respondents called out workplace incivility behaviours *and* reported it to their manager, grievance officer or equivalent person
- 20.6% of trans and gender diverse respondents reported serious bullying behaviours to their manager, grievance officer or equivalent person
- 17% of trans and gender diverse respondents called out serious bullying behaviours *and* reported it to their manager, grievance officer or equivalent person.⁷⁷⁴

Workplace discrimination is one part of the broader, interrelated barriers to equality that trans and gender diverse people face. The Family Access Network explained some connections:

Misinformation and disinformation can lead to trans and gender diverse people experiencing harassment and discrimination in obtaining and retaining housing which has flow on impacts to trans and gender diverse people's ability to access and participate in employment and education to earn income and improve housing stability.

Experiencing anti-trans harassment, discrimination and misinformation in education and employment settings impacts trans and gender diverse people's ability to focus and perform well in these settings which can lead to education being discontinued or employment being terminated or resigned, which in turn impacts income and housing.⁷⁷⁵

The Positive Duty

Evidence shows that the most effective strategies move beyond preventing discrimination to more proactive organisation-wide strategies for wider culture change.⁷⁷⁶ In late 2022, the Federal Parliament passed the *Anti-Discrimination and Human Rights Legislation (Respect at Work) Act 2022* (Cth). This law amended the SDA to introduce a positive duty on workplaces to prevent workplace sexual harassment, sex-based harassment, sex discrimination, hostile work environments and victimisation.

The positive duty requires organisations and businesses to take reasonable and proportionate measures to eliminate these forms of unlawful conduct, as far as possible. This means workplaces must take *proactive* steps to prevent discrimination and harassment, rather than just being reactive to redress harms.

The Australian Human Rights Commission has enforcement powers to inquire into a duty holder's compliance with the positive duty and to ensure compliance with the positive duty. These powers include the ability to conduct inquiries, issue compliance notices, apply to federal courts for compliance orders and enter into enforceable undertakings.⁷⁷⁷

Federally, the positive duty does not extend to other protected attributes, including gender identity, sexual orientation and intersex status (as well as race, disability and age). Some state and territory jurisdictions have a positive duty which also applies to other protected attributes. For instance, under Victorian and Northern Territory anti-discrimination laws, the positive duty covers all protected attributes, including gender identity.⁷⁷⁸

Workplace policies and training

The implementation of workplace trans and gender diverse specific policies and practices is inconsistent and dependent on the goodwill or capacity of an organisation. Many workplaces do not have trans and gender diverse awareness training, gender affirmation policies or information technology systems that appropriately record gender. Inadequate representation of trans and gender diverse people often results in policies that do not reflect trans and gender diverse people's needs.⁷⁷⁹ One submission suggested inadequate training and affirmative policies may lead to trans and gender diverse people losing or changing jobs.⁷⁸⁰

Even where there are policies to protect or affirm trans and gender diverse people, cultural and attitudinal barriers persist. In many instances, the specific requirements of trans and gender diverse employees are incorporated into anti-discrimination or LGBTIQ+ policies. These often do not properly distinguish between sexuality and gender identity. In other workplaces, diversity strategies are often limited to women or First Peoples. Best practice suggests that policies need to cover sexuality and gender identity both together and separately.⁷⁸¹ These policies should also embed intersectional inclusion, rather than treating it as an 'add-on'.⁷⁸²

Workplace systems and data

Another barrier to inclusive workplaces is background checks and clearance processes. This links to some of the problems around self-identification discussed in section 3.4. One submission noted that trans and gender diverse staff must navigate their deadnames and legal names on all checks, clearances, certificates and other documentation.⁷⁸³ This also extended to superannuation, where funds may have binary gender options like F/M or Ms/Mr. This forces the employer or manager to have a conversation with the staff member to 'choose an option which we are all aware will not affirm them'.⁷⁸⁴ This shows how even when employers aim to affirm trans

and gender diverse employees, the systems often create barriers.

Gender binaries extend to high-level data collection about workplace employment. The Workplace Gender Equality Agency (WGEA) is an Australian Government statutory agency created by the *Workplace Gender Equality Act 2012* (Cth). WGEA's purpose is to promote and improve gender equality in Australian workplaces. One of WGEA's biggest jobs is to collect, analyse and publish data about gender equality in Australian workplaces.⁷⁸⁵ WGEA has traditionally framed gender in binary terms and has not focused on trans and gender diverse people. Organisations may voluntarily report non-binary data to WGEA.⁷⁸⁶

In 2021, ACON's submission to a review of the *Workplace Gender Equality Act 2012* (Cth) said about data collection:

ACON recommends that employers collect data to better understand gender diversity within their workplace to enable the provision of support. Disclosure by employees should always be optional but can reduce some barriers that trans and gender diverse people may face in the workplace such as identification, criminal record and/or reference checks, for example.⁷⁸⁷

Noting the above barriers, there are several proactive, practical steps workplaces can take to ensure culturally safe work environments. These actions also reflect many suggestions from the submissions:

- respecting trans and gender diverse people's genders, names and pronouns in person and on systems
- hiring of trans and gender diverse people in ongoing roles
- regularly sharing pronoun preference
- having inclusive bathrooms in addition to gender-specific ones
- having inclusive uniform policies
- having gender affirmation plans and leave
- providing trans and gender diverse awareness training
- undertaking trans and gender diverse inclusive data collection.⁷⁸⁸

Gender affirmation plans

In recent years, workplaces and institutions like universities have been developing policies and guides about gender affirmation. These guides or policies aim to support both employees who want to affirm their gender (often called ‘transitioning’), as well as managers and employers. One tool that many workplaces are using is the gender affirmation plan. Gender affirmation plans are a way for employers and employees to discuss how best to navigate matters like name changes, updating systems, how to disclose to colleagues and clients, personal presentation and access to gendered facilities or uniforms. The Victorian Public Sector Commission provides a good example of a guide to support managers as employees affirm their gender.⁷⁸⁹ Several workplaces – with the support and advocacy of multiple unions – have also introduced gender affirmation leave. Employees can access this leave to do tasks related to gender affirmation, such as medical treatment or to visit registries to update identity documents.



4.4 Sport

- Internationally, sport bodies have increasingly been banning or severely restricting trans and gender diverse people's participation in sport.

- In Australia, trans and gender diverse people face both informal and formal exclusion from all levels of sport from local community through to elite and professional sport. This happens despite the existence of guidelines and policies to support trans and gender diverse people's inclusion in sport.

- Trans and gender diverse people also experience harassment in gyms, leisure centres and public spaces.

Relevant human rights laws and principles

- **Article 27 of the *Universal Declaration of Human Rights*:** states that 'Everyone has the right to freely participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits'.⁷⁹⁰
- **Article 15 of the *International Covenant on Economic, Social and Cultural Rights*:** recognises the right of everyone 'to take part in cultural life'.⁷⁹¹
- **Article 31 of the *Convention on the Rights of the Child*:** affirms the 'right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts'.⁷⁹²
- **The Yogyakarta Principles plus 10:** contains additional recommendations relating to sport. The recommendations are for sporting organisations to:
 - Take practical steps to create welcoming spaces for participation in sport and physical activity, including installation of appropriate changing rooms, and sensitisation of the sporting community on the implementation of anti-discrimination laws in the sporting context for persons of diverse sexual orientations, gender identities, gender expressions, and sex characteristics.
 - Ensure that all individuals who wish to participate in sport are supported to do so irrespective of sexual orientation, gender identity, gender expression and sex characteristics, and that all individuals are able to participate, without restriction, subject only to reasonable, proportionate and non-arbitrary requirements to participate in line with their self-declared gender.
 - Remove, or refrain from introducing, policies that force, coerce or otherwise pressure women athletes into undergoing unnecessary, irreversible and harmful medical examinations, testing and/or procedures in order to participate as women in sport.⁷⁹³

Benefits of physical activity and sport

Sport and physical activity have important health benefits for everyone. This applies to people of all ages, including children and young people. Research on physical activity in trans and gender diverse populations shows a relationship between gender-affirming healthcare, physical activity and gender dysphoria. Gender-affirming healthcare contributes to better body satisfaction. This has the flow-on effect of trans and gender diverse people taking more interest in exercise and healthy physical activities. Physical activity also helps trans and gender diverse people to prepare for gender affirming procedures and maintain good mental health.⁷⁹⁴

Submissions pointed to the important benefits of trans and gender diverse people participating in sport and physical activity. Your Community Health stated:

As a healthcare service, we know sport is integral in maintaining positive health and wellbeing, through both exercise and community connection. For trans people who already experience poorer health and wellbeing outcomes, barriers to exercise need to be removed. Equal access to sport, free from discrimination, is a human right not all can enjoy.⁷⁹⁵

Research on improving physical activity and health outcomes for trans and gender diverse people consistently points to the need for safe and accessible spaces.⁷⁹⁶ Indeed, one study identifies that ‘the practice of physical activity and sports is ... an important coping mechanism that helps trans individuals deal with the gender identification process’.⁷⁹⁷ Because trans and gender diverse populations experience many health disparities (see section 3.2), it is even more important that those who want to participate in sport are supported to do so.



Anti-discrimination laws and sport in Australia

Trans and gender diverse people have been participating in Australian sports for decades.⁷⁹⁸ Under the SDA, it is unlawful to discriminate based on sex or gender identity in sport unless the different treatment amounts to a special measure or there is an exemption. The most pertinent part of the SDA is section 42:

nothing in Division 1 or 2 renders it unlawful to discriminate on the ground of sex, gender identity or intersex status by excluding persons from participation in any competitive sporting activity in which the strength, stamina or physique of competitors is relevant.⁷⁹⁹

State and territory anti-discrimination laws also have exemptions for sport. Like other exemptions, the breadth varies across jurisdictions. Anti-Discrimination NSW explained in their submission:

Section 38P [of the *Anti-Discrimination Act 1977 (NSW)*] provides a broad exception permitting the exclusion of transgender persons from participating in any sporting activity for members of the sex with which the transgender person identifies. The exception does not extend to the coaching or administration of sporting activity. Other jurisdictions have narrower exceptions, such as allowing discrimination in competitive sporting activity for people aged 12 and over where the strength, stamina or physique of competitors is relevant.⁸⁰⁰

The ACT, Victoria, Western Australia, Queensland, South Australia and Northern Territory use similar language in their sport exemptions as the federal legislation: when ‘strength, stamina, or physique’ is relevant to the sport or activity.⁸⁰¹ Section 29 of the *Anti-Discrimination Act 1998 (Tas)* allows for exceptions to sporting activities ‘by restricting participation to persons of one gender of 12 years of age or more’.⁸⁰² The Tasmanian clause explicitly reflects the main purpose of many of these exemptions: to legalise separate women and men’s sports. Yet, the clauses also apply when considering trans and gender diverse people’s participation in sport.

Guidelines for the Inclusion of Transgender and Gender Diverse People in Sport

In June 2019, Sport Australia and the Australian Human Rights Commission, in collaboration with the Coalition of Major Professional and Participation Sports (COMPPS), released the ‘Guidelines for the Inclusion of Transgender and Gender Diverse People in Sport’. These guidelines were developed in consultation with trans and gender diverse athletes and experts in inclusion and gender diversity. They offer principles to assist the sports sector around the participation of trans and gender diverse athletes, particularly at the community level. They outline the relevant legislative frameworks as well as ways sporting organisations and clubs can be inclusive through leadership, codes of conduct, uniforms, facilities and data collection.⁸⁰³

While the guidelines are not legally binding, many Australian sporting organisations have applied them. In August 2019, Cricket Australia launched its policy for trans and gender diverse players’ inclusion.⁸⁰⁴ In October 2020, 8 more peak national sporting organisations launched inclusion policies which aligned with the guidelines:

- AFL
- Hockey Australia
- Netball Australia
- Rugby Australia
- Tennis Australia
- Touch Football Australia
- UniSport Australia
- Water Polo Australia.⁸⁰⁵

Barriers and exclusion from sport

Despite the guidelines and anti-discrimination protections, research suggests that trans and gender diverse people in Australia are significantly underrepresented in sport and physical activity compared with their cisgender peers.⁸⁰⁶

Multiple factors are driving trans and gender diverse people, especially trans women, out of sport:

- the introduction of exclusionary policies from global sports bodies
- hostile sport environments
- a lack of appropriate policies at the grassroots and community level of sport.⁸⁰⁷

Other barriers to sport and physical activity are internal. For instance, many trans and gender diverse people experience dysphoria, fear and anxiety about other people's reactions and possible discrimination.⁸⁰⁸

Research in Australian sport has shown that discrimination and transphobia are common and persistent. This drives trans and gender diverse people away from sport clubs and spaces.⁸⁰⁹ Many sport and exercise professionals lack understanding and cultural competence to work with and cater to the needs of trans and gender diverse people.⁸¹⁰

Submissions identified other barriers trans and gender diverse people face. These include needing to provide evidence of legal and medical gender change. Parents for Trans Youth Equity cited work conducted with a university researcher that 'identified that parents navigate a complex set of legal documentation requirements to affirm their child's name and gender [which] is important for TGD children to ... play community sports'.⁸¹¹ Switchboard Victoria also noted that trans and gender diverse children and young people experience discrimination in sports in and out of school.⁸¹²

There is one notable exception to these reports about trans and gender diverse people facing exclusion: research has shown that trans and gender diverse people experience far lower rates of discrimination in queer and inclusive clubs.⁸¹³ These clubs demonstrate how affirming environments can support trans and gender diverse people.

Gyms and fitness facilities

The 'Free to Exist' report collected comprehensive Australian data about sport and sexual orientation, gender identity and sex characteristics. The report found that young LGBTIQ+ people are using gyms and leisure and fitness facilities at higher rates than they are engaging with organised sport. This is in part because these spaces do not necessarily enforce a gender binary. Trans and gender diverse people can do activities such as gym classes and weight training individually.⁸¹⁴

Yet, the report also found that gyms, leisure centres and public spaces may be sites of discrimination and harassment. Some trans and gender diverse participants spoke of being misgendered by staff and receiving intrusive and inappropriate comments from other patrons.⁸¹⁵

International debates about participation in sport

For decades, opponents of trans and gender diverse rights have used sport to argue against anti-discrimination laws or other initiatives to support trans and gender diverse people. Indeed, they have often brought up sport because of the passions it generates among the cisgender majority. It is easy to play on myths and misunderstandings about trans and gender diverse people in sport.⁸¹⁶

Debates involving sport and trans and gender diverse people have become more prominent in the last decade. The debates have focused especially on whether trans women have physical advantages which would impact on the fairness of sporting competitions. Policies, practices and discussions about sport often exclude non-binary people and trans men.

There are complex factors which influence sports performance. As numerous scholars who work in fields of kinesiology (sport science), law, policy and gender studies have written, evidence does not support claims that all trans women would, by virtue of having gone through male puberty, automatically have unfair advantages in sport.⁸¹⁷

The focus on trans women's perceived advantage and threats to safety disregards

the diversity of trans women. Indeed, as researchers have noted, opponents of trans women in sport make assumptions about both cisgender and trans women which arbitrarily set parameters of 'masculine' and 'feminine' bodies. These arbitrary judgements hurt not only trans women, but also people with IVSC (also known as intersex variations) and cisgender women whose bodies do not fit within supposed norms.⁸¹⁸

Both advocates and opponents of trans women's participation in sport have pointed to scientific studies to argue their cases. However, a literature review performed by the Canadian Centre for Ethics in Sport found that most studies referenced to oppose trans women's participation in sport 'have used either cis men or sedentary [physically inactive] trans women as proxies for elite trans women athletes'.⁸¹⁹

Another recently published evidence review found that evidence from 52 studies did not support the theory that trans women have an inherent athletic advantage over cisgender women.⁸²⁰

Internationally, the debates over trans and gender diverse people in sport have led many peak sporting bodies to ban trans women's participation at all or some levels. These bodies include World Rugby, World Athletics, Union Cycliste Internationale, International Rugby League and World Aquatics. Most of these bans apply only to trans women who went through 'male puberty' - meaning those who did not take puberty suppressants as children. Many of the groups, politicians and media calling to ban trans women from sport also oppose gender-affirming healthcare for children and young people.

Since 2021, the International Olympic Committee (IOC) has taken a sport-by-sport approach to trans and gender diverse inclusion - allowing the sport bodies to set the rules for participation in the Olympics. In November 2025, though, media reported that the IOC was preparing to release a new policy which would effectively ban trans women who went through male puberty from competing.⁸²¹



In recent years, some organisations which claim to support women's sports have framed trans women as a threat to cisgender women athletes or to women's sport in general. Critics have pointed out that these organisations focus only on trans and gender diverse people in sport, rather than other challenges affecting women in sport. For instance, one study with cisgender women rugby players found that they did not consider trans women's participation to be a priority. Instead, they cited as their biggest challenges: men's sexist and homophobic behaviours and attitudes, sexual harassment at social events, overt discrimination, subtle discrimination (e.g. prioritising men for physiotherapy) and unsafe and substandard training facilities.⁸²²

Australian attitudes towards trans and gender diverse participation in sport

Submissions from trans and gender diverse people, advocates and researchers opposed any formal or informal exclusion from sport. ACON argued that 'sport plays such a significant role in the lives of Australians and is often seen as the platform for change in societal attitudes. Sports policies and practices must pave the way for inclusivity, ensuring trans people can participate fully and safely.'⁸²³

A minority of submissions opposed trans women's participation in sport – often in the context of their arguments about single-sex spaces (see section 3.4). These submissions echoed international debates about unfair advantages and safety. For instance, one individual wrote:

Trans women, more often than not, are larger bodies which could inflict serious damage to a biological woman if there was a collision or stumble. This matter cannot be ignored for the safety of women, the integrity of women's sport and the rights of women to be comfortable and safe in whatever they wish to pursue.⁸²⁴

Women's Forum Australia's submission to Queensland's Birth, Deaths and Marriages Registration Bill 2022 also suggested that trans and gender diverse 'inclusion means that women and girls who would otherwise

have a chance to compete or to excel, miss out, either because a male athlete has taken their spot or their placing.'⁸²⁵

The public debates have led to bullying, harassment and discrimination against trans women in sporting environments. For example, submissions from ACON, Switchboard Victoria, Your Community Health and Inner City Legal Centre described sport as a key area where 'trans people are the targets of escalating anti trans and gender-based hate campaigns'.⁸²⁶ Illawarra Shoalhaven Gender Alliance cited members who reported that 'trans and gender diverse people, particularly women, [are] being verbally intimidated and harassed at places such as community leisure facilities resulting in a reluctance for them to participate in health promoting physical activities'.⁸²⁷

Community versus elite sport

The 2019 'Guidelines for the Inclusion of Transgender and Gender Diverse People in Sport' distinguish between approaches for elite or high-performance competitions versus grassroots or community sport. According to the Australian Institute for Sport (AIS), all national sporting organisations have their own ways to classify elite athletes.⁸²⁸ The AIS also has a framework known as FTEM to distinguish between elite and grassroots or community sport: Foundations – Talent – Elite – Mastery.⁸²⁹

Many of the debates about trans women in sport tend to conflate the grassroots and elite environments. At the elite and high-performance levels, policies need to consider sport-specific factors and the 'the range of competitive advantages and abilities that are already accepted in the cisgender population'.⁸³⁰ However, there are very few trans and gender diverse athletes competing and eligible to participate in elite competitions, both in Australia and internationally.⁸³¹

Most trans and gender diverse people participate in grassroots and community sport. Best practice at that level – as reflected in the 2019 guidelines – is to prioritise inclusion.⁸³²

5. Appendices

5.1 Appendix A: previous Australian Human Rights Commission documents addressing trans and gender diverse rights

- [‘Sex Files: The Legal Recognition of Sex in Documents and Government Records – Concluding Paper of the Sex and Gender Diversity Project’](#) (2009): This project explored legal recognition of people’s sex and gender on documents and in government records. The final report made recommendations about how to improve legal recognition and change of gender in government records.
- [‘Addressing sexual orientation and sex and/or gender identity discrimination: Consultation report’](#) (2011): In 2010 the Commission began a consultation process to hear people’s experiences of discrimination on the grounds of sexual orientation or gender identity. The consultation report addressed a range of areas of public life, including: anti-discrimination laws, education, health, aged care, prisons and legal recognition on documents.
- [‘Resilient Individuals: Sexual Orientation, Gender Identity, and Intersex Rights’](#) (2015): This report explored the discrimination and marginalisation faced by LGBTI+ people in Australia. It highlighted policy reform needed to address issues of systemic discrimination enforced through binary and traditional views of gender identity.
- [‘Religious Exemptions under the SDA – Information Sheet’](#) (2017): This document explained the provisions in the SDA that allow religious organisations to legally discriminate against individuals based on sex, sexuality or gender identity.
- [‘Guidelines for Including Transgender and Gender Diverse People in Sport’](#) (2019): These guidelines provided recommendations for sports organisations to create inclusive environments for trans and gender diverse individuals. The document emphasised how to retain fair competition while upholding the right of trans and gender diverse people to participate safely in all levels of sport.
- [‘Wiyi Yani U Thangani \(Women’s Voices\)’](#) (2020): This report brought together findings and recommendations from Australia’s first national consultation with Aboriginal and Torres Strait Islander women. The report includes the voices of First Peoples who identify as transgender, and as Sistergirls and Brotherboys.
- [‘Trans and gender diverse people’s rights in Australia’](#) (2026): These are 3 explainer documents which provide summaries of concepts and laws around trans and gender diverse people’s rights in Australia. There are 3 explainer documents covering an overview of trans and gender diverse people’s rights, legal protections and rights for trans and gender diverse young people

5.2 Appendix B: Yogyakarta Principles and plus 10 principles⁸³³

Principle 1	the Right to the Universal Enjoyment of Human Rights
Principle 2	the Rights to Equality and Non-Discrimination
Principle 3	the Right to Recognition before the Law
Principle 4	the Right to Life
Principle 5	the Right to Security of the Person
Principle 6	the Right to Privacy
Principle 7	the Right to Freedom from Arbitrary Deprivation of Liberty
Principle 8	the Right to a Fair Trial
Principle 9	the Right to Treatment with Humanity while in Detention
Principle 10	the Right to Freedom from Torture and Cruel, Inhuman or Degrading Treatment or Punishment
Principle 11	the Right to Protection from All Forms of Exploitation, Sale and Trafficking of Human Beings
Principle 12	the Right to Work
Principle 13	the Right to Social Security and to Other Social Protection Measures
Principle 14	the Right to an Adequate Standard of Living
Principle 15	the Right to Adequate Housing
Principle 16	the Right to Education
Principle 17	the Right to the Highest Attainable Standard of Health
Principle 18	Protection from Medical Abuses
Principle 19	the Right to Freedom of Opinion and Expression
Principle 20	the Right to Freedom of Peaceful Assembly and Association
Principle 21	the Right to Freedom of Thought, Conscience and Religion
Principle 22	the Right to Freedom of Movement
Principle 23	the Right to Seek Asylum
Principle 24	the Right to Found a Family

Principle 25	the Right to Participate in Public Life
Principle 26	the Right to Participate in Cultural Life
Principle 27	the Right to Promote Human Rights
Principle 28	the Right to Effective Remedies and Redress
Principle 29	Accountability
Principle 30	the Right to State Protection
Principle 31	the Right to Legal Recognition
Principle 32	the Right to Bodily and Mental Integrity
Principle 33	the Right to Freedom from Criminalisation and Sanction on the Basis of Sexual Orientation, Gender Identity, Gender Expression or Sex Characteristics
Principle 34	the Right to Protection from Poverty
Principle 35	the Right to Sanitation
Principle 36	the Right to the Enjoyment of Human Rights in Relation to Information and Communication Technologies
Principle 37	the Right to Truth
Principle 38	the Right to Practise, Protect, Preserve and Revive Cultural Diversity

5.3 Appendix C: Sample of international trans and gender diverse rights

This appendix outlines some examples of the experience of trans and gender diverse rights internationally. These are just select examples and not an exhaustive list of all nations and their initiatives. The examples are a mix of both positive and negative reforms around trans and gender diverse rights.

Criminalised jurisdictions

There are still many countries that criminalise trans and gender diverse people. The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) is a federation of over 2,000 non-profit organisations worldwide that campaign for LGBTIQ+ human rights. In September 2020, ILGA published the most recent edition of its 'Trans Legal Mapping Report'. This report explored the legal situation in 143 member states of the United Nations. According to that report, 13 countries criminalised trans and gender diverse people through 'cross-dressing' laws. Punishments range from imprisonment and corporal punishment to death. These countries were Brunei, the Gambia, Indonesia, Jordan, Kuwait, Lebanon, Malawi, Malaysia, Nigeria, Oman, South Sudan, Tonga and the United Arab Emirates. There were 37 additional countries that have laws which disadvantage trans and gender diverse people, often through anti-homosexual laws and provisions.⁸³⁴

Since that report's publication, several countries have rolled back various trans and gender diverse rights.

Pacific

Most Pacific nations – including Tonga, Papua New Guinea, Solomon Islands, Tuvalu, Cook Islands and Kiribati – have no legal protections for trans and gender diverse people. In Samoa, workplace anti-discrimination law includes gender as a protected attribute,⁸³⁵ but the Samoa Fa'afafine Association has indicated that this does not apply to fa'afafine or fa'afatama.⁸³⁶ Fiji's 2013 constitution bans discrimination based on sexual orientation, gender identity

or expression.⁸³⁷ However, there are no provisions in Fijian law for people to change their legal gender.

Aotearoa New Zealand introduced self-identification legislation in 2023. This means individuals can change sex and gender markers on birth certificates based on self-identification. They do not require supporting evidence from medical practitioners to make these changes.⁸³⁸

In November 2025, the Aotearoa New Zealand Government announced a ban on prescribing puberty suppressants for trans and gender diverse children. This ban is in effect until the completion of clinical trials in the United Kingdom. That is not expected until 2031.⁸³⁹

Asia

Since 2014, India has recognised a third gender. The Indian Supreme Court ruled in *National Legal Services Authority v Union of India* that trans and gender diverse people have a right to legal recognition of their self-identified gender.⁸⁴⁰

Similarly, Pakistan introduced the *Transgender Persons (Protection of Rights Act) 2018*. This law guarantees fundamental rights to trans and gender diverse people and prohibits discrimination. In 2023, the Federal Shariat Court of Islamabad struck down some provisions of the law around self-recognition of gender.⁸⁴¹

Latin America

In 2020, Argentina passed a law that introduced a quota that reserves 1% of government jobs for trans and gender diverse people.⁸⁴² This added to existing legislation which recognises trans and gender diverse rights. For instance, the *Gender Identity Law 2012* says that everyone has a right to recognition of their gender identity.⁸⁴³

In February 2025, the Argentinian president issued a decree modifying the *Gender Identity Law 2012* to ban gender-affirming healthcare for children and young people

under the age of 18. The decree also limited trans and gender diverse people in the criminal justice system from accessing accommodation in their affirmed gender.⁸⁴⁴

In Colombia, legislators introduced the Comprehensive Trans Law into the legislature in June 2025. The law followed public outcry after the brutal murder of trans woman Sarah Millery. The bill would introduce anti-discrimination protections, self-identification for legal recognition of gender, the introduction of non-binary and trans or travesti gender markers, require data collection around gender identity and includes sections recognising intersectionality. The bill must still pass through the legislature – but it is the first time such a bill has made it to legislative debate in Colombia.⁸⁴⁵

Africa

As noted above, several African nations have criminalised trans and gender diverse people through cross-dressing laws.

South Africa tends to have the continent's most progressive laws relating to LGBTIQA+ people. The 1994 Constitution enshrines protections from discrimination on the basis of sex, gender and sexual orientation. *The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000* also outlaws unfair discrimination and harassment for protected attributes which include sex, gender and sexual orientation. Although the laws do not explicitly mention gender identity, courts and the South African Human Rights Commission have interpreted the protections to apply to trans and gender diverse people.⁸⁴⁶

On legal recognition of gender, as early as 1974 – under Apartheid – the *Trans Rights Law* amended the *Births, Deaths and Marriages Act* to permit people who had gender affirming surgery to change their gender markers. The post-Apartheid government passed the *Alteration of Sex Description and Sex Status Act 49 of 2003*. This requires someone to have undergone a medical or surgical procedure to update the gender markers on their birth certificates.⁸⁴⁷

Europe

European countries have been at the forefront of introducing and/or expanding equality laws to include trans and gender diverse people. For example, in 1972, Sweden was the first country to allow legal change of gender and introduced free gender affirming surgery. In 2024 the Swedish Parliament passed a new law that lowered the age of who can change their legal gender to 16 years.⁸⁴⁸

In 2023 the Spanish Parliament passed legislation extending protections and rights for trans and gender diverse people. The law introduced self-identification for anyone over the age of 16 to change their legally recognised gender. There are also provisions for children aged 12–16 to change their legally recognised gender either with parental consent or court approval. The law also banned conversion practices.⁸⁴⁹

The European Court of Human Rights and European Court of Justice have also played key roles to support legal recognition and protection for trans and gender diverse people. The European Court of Justice case *P v S and Cornwall County Council* (1996) concerned a trans woman who lost her job after disclosing to her employer that she was undergoing a gender affirming procedure. The European Court of Justice held that this constituted sex discrimination under the Equal Treatment Directive in the Charter of Fundamental Rights. This directive enshrines the right to equal treatment between men and women. The Court reasoned that under this right, a person being dismissed on the grounds of undergoing gender reassignment 'is treated unfavourably by comparison with persons of the sex to which he or she was deemed to belong before undergoing gender reassignment'.⁸⁵⁰

United Kingdom

Until mid-2025, human rights laws in the United Kingdom were relatively favourable for trans and gender diverse people. For example, the *Equality Act 2010* includes ‘gender reassignment’ as a protected attribute. This protects any individual who is ‘proposing to undergo, is undergoing or has undergone a process (or a part of a process) for the purpose of reassigning the person’s sex by changing physiological or other attributes of sex’.⁸⁵¹

Under the *Gender Recognition Act 2004* trans and gender diverse adults may legally change their gender. However, the process is not based on self-identification. Individuals must apply to the Gender Recognition Panel to receive a Gender Recognition Certificate. The application requires:

- the person to have lived in their affirmed gender for 2 years
- medical evidence confirming a diagnosis of gender dysphoria
- a statement of intent to live in their affirmed gender until they die.⁸⁵²

In recent years there have been other restrictions imposed on trans and gender diverse rights. For instance, following the publication of the Cass Review, in March 2024 the Health Minister banned the prescription of puberty suppressants to trans and gender diverse children through the NHS.

In April 2025, the United Kingdom Supreme Court ruled in *For Women Scotland Ltd v The Scottish Ministers* that, under the *Equality Act 2010*, the word ‘sex’ only refers to a person’s sex recorded at birth.⁸⁵³ Following the ruling, the UK Equality and Human Rights Commission (EHRC) issued interim advice that trans and gender diverse people could only access single-sex facilities (i.e. bathrooms) and services aligned with their sex recorded at birth. Human rights groups have noted that this has major negative consequences for trans and gender diverse human rights in the United Kingdom.⁸⁵⁴

United States

Across the United States, federal and state legislatures have been debating and passing laws to restrict trans and gender diverse rights. The Trans Legislation Tracker shows a significant increase in bills introduced and passed in the last 5 years:

Year	Number of bills introduced	Number of bills passed
2021	153	18
2022	174	26
2023	615	87
2024	701	51
2025	1,022	126

These bills have targeted trans and gender diverse rights in healthcare, sport, bathrooms, prisons and education.⁸⁵⁵

Since January 2025, President Donald Trump has issued several executive orders restricting trans and gender diverse rights. One executive order signed in January recognises 2 sexes – male and female – and says that gender cannot be changed.⁸⁵⁶ A week later an executive order banned trans and gender diverse people from the US military unless they used facilities and uniforms aligned with their sex recorded at birth. In February 2025, another executive order banned trans and gender diverse athletes from competing in women’s sports when there was federal funding attached.

Some state governments have responded to these debates and actions by strengthening protections for trans and gender diverse people. However, the current trajectory in the United States suggests more challenges for trans and gender diverse rights.



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GPO Box 5218 SYDNEY NSW 2001

Telephone: (02) 9284 9600

National Information Service: 1300 656 419

General enquiries: 1300 369 711

TTY: 1800 620 241

Fax: (02) 9284 9611

Website: www.humanrights.gov.au