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LEGISLATIVE COUNCIL SELECT COMMITTEE INTO ELDER ABUSE

The experiences of older Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) West Australians

Thank you for the opportunity to contribute a submission to the Select Committee's inquiry into Elder Abuse. This submission will focus on issues affecting LGBTI elders.

GRAI was established in 2005 to improve the rights and well-being of older LGBTI people in Western Australia. Our work includes advocacy for law reform to enhance the legal rights of LGBTI people in aged care. GRAI works to raise awareness of the needs and concerns of LGBTI elders, delivering LGBTI inclusivity training to the aged care sector in WA. GRAI also works within the community to build stronger connectivity with older LGBTI people, with a program that includes social events and information workshops.

Over the past few years, the social stigma associated with being LGBTI has dramatically reduced – supported by greater legal protections – but unfortunately there remain many examples of systemic, direct and indirect discrimination. Much of this ongoing discrimination is inadvertent: a result of hetero-normativity embedded in our culture which blinds organisations and individuals to the fact that they are acting in an exclusionary manner. Legal provisions which require compliance with LGBTI inclusivity have been helpful to address this, by forcing a re-evaluation of long-standing practices and organisational culture.

Despite the general improvement in the social and legal standing of LGBTI people, strong beliefs as to the 'wrongness' of diverse sexuality and gender identities still are in evidence, and very real abuses are perpetrated by carers and/or family members who hold these views. An older person frequently takes it as their responsibility to avoid conflict and does so by regular pretense: a suppression or denial of sexuality or gender identity which creates stress and loss during an LGBTI elder's life. Not infrequently, this identity loss even extends posthumously with the erasure of identity in funeral arrangements causing distress and disenfranchised grief among LGBTI friends and relationships.

The continuation of discriminatory practices is exacerbated by the widespread invisibility of older LGBTI people. This cohort has experienced historic alienation having been criminalised, pathologised and vilified, and has learned the particular survival technique of remaining hidden from view to avoid negative or even dangerous repercussions. This lack of visibility can stymie reform and certainly contributes to the rarity of complaint from LGBTI elders.

GRAI submits the following responses to the Select Committee's Terms of Reference.

A) Appropriate definitions of elder abuse

Elders' rights are almost universally framed with the assumption of an individual perpetrator, 'the person who is the 'abuser'''.

This is problematic when discussing LGBTI rights, which have been negated or undermined by systemic abuses. Discriminatory sanctions against the LGBT community were applied by the state, by the psychiatric profession and by the church, and the broad reach of this oppression continues to affect present-day values. The exclusive 'normalisation' of heterosexuality is endemic, and obscures identification of factors which limit the rights and well-being of LGBTI elders.

GRAI would therefore like to see a broadening of the definition of elder abuse to extend to **systemic abuse** as exclusionary or discriminatory policies, procedures, organizational structures and cultures can perpetrate abuse just as surely as if by a natural person. Considering the common classifications of elder abuse and their indicators, it is clear that many of these harms can be equally caused by systemic discrimination which effectively alienates an individual or cohort. For example,

- an indicator of neglect is 'preventing someone from accessing a service';
- an indicator of emotional or psychological abuse is 'inflicting mental anguish, fear, feelings of shame, or powerlessness' (APEA).

Lack of appropriate inclusive services creates a serious barrier to access for LGBTI elders, placing them at risk of poorer health and safety outcomes. Exclusionary services and lack of positive affirmation for LGBTI elders effectively perpetuates fear, shame and a need to hide their true selves.

Harm or distress

The World Health Organization defines Elder Abuse as 'a single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person'.

LGBTI elders frequently maintain secrecy over their sexuality or gender identity to many of their associates and/or carers. While this protects them from feared 'negative attention' or reduction in service quality, it is also a cause of ongoing stress. On the other hand, LGBTI elders who are more 'out', while freed from the anxiety of discovery, are exposed to increased risk of rejection or abuse from co-clients, families or friends, and report feelings of discomfort with untrained care providers. The need to either hide ones sexuality or gender identity (be 'closeted'), modify ones behaviour, or be 'out' and run the risk of harassment, is a constant form of harm and distress for LGBTI elders.

Intention

Hetero-normativity (i.e. the assumption that heterosexuality is 'the norm', and consequent lack of consideration of other sexualities/gender identities) has led aged care providers, and the community generally, to overlook LGBTI issues – especially when combined with ageist erotophobia, in which older people's sexuality is stigmatised. These factors create a 'blind spot', forming barriers to policy change, as ambivalent board and staff members need pursuading of the necessity of reform.

The absence of intention should not excuse abuse. Individual and/or organisational prejudice and/or lack of information undermines the provision of a safe environment, despite anti-discrimination legislation setting clear expectations of equality in service delivery.

Similarly, family members who perpetrate homophobic or transphobic abuse may not be aware that their behaviour is abusive because they believe their responses are aligned with societal norms.

B) Prevalence

There are no statistics available on abuse of LGBTI elders in Australia. However, as the LGBTI community represents 10 to 15% of the population, LGBTI-discrimination issues will potentially impact upon at least 34,000 people in Western Australia.[1]

Systemic abuse affects everyone in the LGBTI community: the inability to feel culturally safe within a community or within a service is an abuse of human rights. Lack of safe, inclusive services (including legal, health, social and aged care) presents a barrier to accessing these services as well as undermining the well-being of the elders concerned.

Very little research has been conducted into the risks to and needs of LGBTI elders in general, and especially so in rural areas. It should be noted that LGBTI elders generally have become so accustomed to the 'status quo' of being a vilified or disrespected minority, that in order to maintain psychological well-being this experience is simply internalised as 'normal' and rarely identified as 'abuse'. Therefore a research inquiry should consider asking if an elder 'feels free to be themselves' rather than using a stronger term such as 'abuse'.

In Western Australia, we have not yet had the resources to gather data on LGBTI elder abuse in aged care. However, in 2010, GRAI conducted research in conjunction with Curtin University, on attitudes of residential care providers towards LGBTI people and their care needs. The report, *'We don't have any of those people here',*[2] demonstrated that LGBTI residents were largely invisible to the survey respondents. This, combined with a low level of understanding of LGBTI elders' special needs, lead us to conclude that facilities' capacity to adequately meet the care needs of these elders would indeed be compromised.

Research findings included:

- 86% of Facility Survey respondents were unaware of any LGBTI residents within their facility
- "Your Facility recognises that LGBTI residents have specific needs": only 5% Strongly Agreed; 19% Agreed
- None had links with LGBTI organizations
- Low awareness of State and/or Federal legislation re LGBTI people.

We hope that these statistics would be improved were the survey repeated in 2017. However, over the past 3 years we have been conducting LGBTI inclusivity training in aged care, and from training room interactions conclude that although participants are mostly receptive and sympathetic, understanding about the special needs of LGBTI elders remains patchy.

C) Forms of elder abuse

Abuse by families

LGBTI elders are subject in equal measure to all the forms of elder abuse experienced by the wider community. However, there is a greatly increased likelihood of poor or hostile relationships with, or estrangement from, biological families, which increases this cohort's vulnerability, and in consequence the Australian Law Reform Commission concludes LGBTI elders are at greater risk than the wider population.[3]

[1] Australian Human Rights Commission estimated 11% of the Australian population is of diverse sexuality or gender identity (2014). Based on 2015 ABS Statistics, there will be approximately 34,000 LGBTI elders in WA (based on 10% of over 65's).

[2] GRAI , 2010, *We don't have any of those people here. Retirement Accommodation and Aged Care Issues for Non-Heterosexual Populations*. Curtin Health Innovation Research Institute, Curtin University, WA.

[3] Australian Law Reform Commission, *Elder Abuse Issues Paper (IP 47)* (June 2016) <https://www.alrc.gov.au/sites/default/files/pdfs/publications/ip47_whole_issues_paper_47_.pdf> [40].

Abuse risk is heightened when biological families disapprove of their relative's "lifestyle" and wield inappropriate power when elders are less/un-able to defend themselves. Relatives may also be genuinely unaware of, or be in denial about a relative's sexuality/gender identity, especially if this has been kept hidden, which can lead to claims or behaviours which undermine the elders' rights.

Abuses perpetrated by families or others can include:

- obstructing visits from LGBTI community members of whom they don't approve,
- asking a residential service to ignore the gender presentation wishes of a resident (dress style),
- denying access to grandchildren if the elder does not conform to their wishes,
- exploiting an older LGBTI person by use of threats to 'out' them,
- not recognising the partner of their LGBTI relative; excluding the partner from end-of-life decision-making and/or claiming possessions and property. A partner may be poorly positioned to defend their rights if they have become disempowered over a lifetime of not openly declaring their relationship.

Posthumous rights

If LGBTI community members have families who are disrespectful of or hostile to their identities, they are at risk of having their sexuality/gender identities erased upon their death, that is, funeral arrangements or memorials which fail to acknowledge or deny the deceased's same sex partners or friends, or revert to the natal name and gender of a trans person. The final indignity of identity erasure, coming at the end of a life of struggle, is especially painful for friends/partners/networks of the deceased, who also, if unable to openly declare their loss, suffer disenfranchised grief.

Legal standing of the dead is hard, but not impossible to establish, and precedents include international debate on posthumous rights with regard to bodily integrity and reproductive rights.[4] GRAI would welcome reform in this area to uphold the rights of LGBTI people to be recognised as 'who they were'.

GRAI maintains that lack of dignity and self-determination afforded some LGBTI people following their death is elder abuse. This abuse is not only perpetrated against the person who has died but is also an abuse of their same-sex or trans partners and friends.

Abuse of LGBTI elders human rights by service providers

LGBTI elders commonly experience unsafe services due to the provider being unaware of the existence, or impacts of heteronormative policies, procedures and culture within their service. Examples include:

- access and intake procedures may exclude options for LGBTI elders to identify themselves;
- language and attitudes may cause LGBTI elders to 'lie by omission' or lie outright about their 'families of choice';
- hetero-normative marketing and facilities' hetero-normative culture may increase elders' reluctance to approach the service in the first place;
- inadequate protective measures are in place to prevent and/or mitigate co-resident hostility; and
- lack of inclusivity training can lead to staff failure to recognise LGBTI elders' discomfort or lack of safety.

This inability to recognise and celebrate LGBTI elders is a form of systemic abuse which reduces the dignity of the individual, forces them to hide their true nature and their relationships, and can be a severe deterrent to accessing needed services.

In addition to this inadvertent abuse, there are also examples of overt and covert abuse by providers/agents who remain uncomfortable with or disapproving of non-heteronormative, non gender-conforming identities. Although state and

[4] Kirsten Rabe Smolensky , 2009, Rights of the Dead, Hofstra Law Review, Vol. 37:763.
http://law.hofstra.edu/pdf/academics/journals/lawreview/lrv_issues_v37n03_cc4_smolensky_final.pdf

federal anti-discrimination laws require non-discriminatory services, in practice this is hard to police, and victims are unlikely to raise a complaint.

LGBTI elders are particularly vulnerable to abuse by co-residents and/or their visitors or relatives. Lack of clear LGBTI-inclusivity policies and practice guidelines, and a hetero-normative culture, create a vacuum in which staff do not have clear guidelines to take appropriate actions to protect elders against homophobic or transphobic abuse.

D) Risk factors for elder abuse of LGBTI seniors

Lack of inclusive services

LGBTI elders often remain reluctant to access necessary care or services for fear of humiliation or poor treatment. Past experiences of discrimination create an anticipation of an unsafe world unless otherwise positively reassured, therefore lack of clearly indicated LGBTI-inclusive services presents a risk factor to these individuals, whose health and well-being can be compromised by late presentation to health professionals or other needed services. [5]

Even after accessing a service, LGBTI elders (or elders with LGBTI friends or family), often keep their sexuality or gender identities hidden, potentially increasing minority stress for all concerned. This leads to poor interpersonal outcomes between clients and service providers. Overall, lack of clearly articulated inclusivity can exacerbate minority stress with consequent mental health ramifications.

Finally, the absence of an inclusive environment can also result in a sad loss of partner recognition, either through lack of sensitivity on the agency's part, or lack of confidence to disclose on the elder's part. Impacts of this loss include distress and sadness at being unable to demonstrate affection and lack of consultation in decision-making, potentially breaching the elders' rights.

Lack of awareness of rights

Limited awareness of their legal rights is a risk factor for all elders who often have very low expectations regarding what constitutes acceptable treatment. Internalised ageism, poor health, cognitive decline, physical dependence and social isolation all play a role to decrease elders' awareness of their situation.

For LGBTI elders these factors are amplified by a lifetime's exposure to and acceptance of marginalisation and abuse. Having lived their lives in the context of little, if any, reprieve from abuse on the basis of their sexual orientation, gender identity or sex, the internalisation of this power imbalance leads to an acceptance of it as a 'norm' along with the onus of responsibility to 'straighten up' (their bodies or relationships) in order to be safe .[6]

Despite recent legislative reforms, LGBTI elders will continue to modify their behaviour and/or hide their identities in order to avoid upsetting families or carers and, if targeted by homophobic or transphobic behaviours, are more likely to accept it as the status quo rather than recognise it as abuse.

Lack of understanding regarding legal processes means many LGBTI elders are unaware of how the legal system can be used to protect them against discrimination. Combined with negative historical experiences, these factors contribute to both an inability and unwillingness to seek legal redress.[7]

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[5] Leonard, W 2002, *What's the difference: Health issues of major concern to gay, lesbian, bisexual, transgender and intersex (GLBTI) Victorians*, Ministerial Advisory Committee on Gay and Lesbian Health, Melbourne.

[6] There's no need to straighten up: http://www.opalinstitute.org/uploads/1/5/3/9/15399992/nntsu_-_full_report_-_print_read.pdf

[7] Eileen Webb and Liam Elphick, 'Yesterday Once More: Discrimination and LGBTI+ Seniors' (2017) 43(2) (upcoming) *Monash University Law Review.*

Dementia

People living with dementia are acutely vulnerable to many forms of abuse, which will no doubt be extensively explored in submissions by others. LGBTI elders naturally share the same vulnerabilities as the wider population, but diverse sexualities and gender identities and intersex status pose additional risks if families and/or carers are homophobic or bi- or transphobic. The lowering of social inhibitions brought about by the dementia process can cause people to 'out' themselves to families who were hitherto unaware, carrying elements of risk if they are shocked and unsupportive.

Being unable to self-censor, an LGBTI person living with dementia can also be at greater risk of judgmental or ambivalent treatment in residential care. Finally, their histories can negatively affect their perceptions of the support given, a point which needs staff knowledge and understanding.[8]

E) Assessment and review of legislative and policy frameworks

Issues of concern to an ageing cohort include housing security, estate planning, health care and end-of-life issues. Ageing LGBTI people can face unique issues as laws, policies and procedures regulating these considerations are focused on the 'general' population and their associated heterogeneous assumptions. Therefore, the circumstances of many LGBTI people, for example reliance on families of choice for care and support, do not always sit well within the prevailing legal regime.[9]

Older LGBTI people may be reluctant to pursue appropriate legal avenues to ensure that their wishes are carried out. Situations where same sex partners are not 'out', and/or both names do not appear on a property title, can lead to complications around wills and distribution of shared assets, especially if estranged families make an appearance with claims on property or end-of-life decision making.[10] Officers of agencies such as SAT and OPA should be alert to the potential risks of such situations where a partner may be feel intimidated to silence and their security of tenure undermined.

Families of choice

An LGBTI elder may not be able to or be unwilling to establish their de-facto relationship, in which case the pursuit of legal avenues is limited. Similarly the law poorly represents those who are not in a relationship but have a friendship group. Such 'families of choice' are common among older LGBTI people, often filling the gap left by unsupportive biological family. However, if there is no will, the laws of intestacy may see property or assets devolve in a way not intended by the deceased person.

Although same-sex couples can be recognized as de facto partners, legal protections do not extend to people who are not partners but are very close to an older LGBTI person.

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[8] Des Kelly, 'LGBT older people with dementia should not be forced back into the closet, The Guardian (UK) (online), 10 March 2015 http://www.theguardian.com/social-care-network/2015/mar/10/lgbt-older-people-dementia-social-care; Alzheimer's Australia, LGBTI People and Dementia: The Important Issues (2014) <https://sa.fightdementia.org.au/sites/default/files/SA/documents/LGBTI%20People%20and%20Dementia%20Booklet%20-%2020150112.pdf> 5; Alzheimer's Australia, LGBTI Communities, Ageing and Dementia (12 June 2014) <http://dementiaresources.org.au/2014/06/12/lgbti-communities-ageing-and-dementia/>.

[9] See generally Alexis Dewaele et al, 'Families of Choice? Exploring the Supportive Networks of Lesbians, Gay Men, and Bisexuals' (2011) 41(2) Journal of Applied Social Psychology 312; Arnold H. Grossman, Anthony R. D'Augelli and Scott L. Hershberger, 'Support Networks of Lesbian, Gay, and Bisexual Adults 60 years of age or older' (2000) 55(3) Journal of Gerontology 171, in Eileen Webb and Liam Elphick, 'Yesterday Once More: Discrimination and LGBTI+ Seniors' (2017) 43(2) (upcoming) *Monash University Law Review.*

[10] Colleen Cartwright, Tania Lienert and Katherine Beck, *The Experiences of Gay, Lesbian, Bisexual and Transgender People around End-of-Life Care Scoping: Study Report* (2010) Southern Cross University (School of Health and Human Sciences) <http://epubs.scu.edu.au/hahs_pubs/1467/>.

The importance of Wills, Advance Care Directives and Enduring Power of Attorney is critical for LGBTI elders to ensure their wishes are honoured. Greater uptake of these important precautions could be achieved through education campaigns directed to the LGBTI community.

F) Assessment and review of service delivery and agency responses

The aged care sector in Western Australia has been quite responsive to the national roll-out of the federally funded LGBTI inclusivity training project. Through this project, GRAI has been delivering training in the sector since 2015. However, there are limitations to the effectiveness of this project, particularly scale and reach. Only a small percentage of aged sector staff has accessed the training, and rural and remote areas have been particularly under-serviced.

Although staff training is important, it is only one component among several which combined will ensure safe environments for LGBTI elders. Whole-of-organization cultural change is generally required before we can have confidence that there will be proper compliance with legislative requirements to provide inclusive care.

No resources have yet been allocated to assess the effectiveness of this project on the ground. Current assessments by the Quality Agency are at a basic level in this regard and, in the absence of a mandatory accreditation requirement, LGBTI inclusivity is likely to remain an underrated asset.

G) The capacity of the Western Australia Police to identify and respond to allegations of elder abuse

Impact of past discriminatory legislation

Inclusivity training of the WA Police should, if it does not already do so, address issues of concern to LGBTI elders – in particular, the impacts on this cohort of past law enforcement practices which targeted homosexuality. Although the Premier of Western Australia recently issued a formal apology to gay men for past discriminatory laws, and an expungement of historical homosexual sex convictions Bill is currently before Parliament, the psychological scars of living in a world in which ones sexuality was criminalised remain a potent stressor. Gaining the trust of LGBTI elders needs particular sensitivity as past police behaviours are still vivid memories, particularly for gay men.

Western Australian Police participation in the Pride Parade is a visible indication of the change in values within the force, and sends a welcome signal. Further to this, an official apology from the Police Commissioner, as has been done in many other jurisdictions, would be an important step in healing old wounds within the LGBTI community and building confidence that the Police would defend their rights if necessary.

Trans elders

Trans elders tend to be subject to frequent abuse, especially if they do not readily "pass".[11] It is not uncommon for trans elders to endure daily verbal slights and the mental health impacts of these challenges to their identity and dignity are cumulative. Police training should ensure that personnel are aware of the likelihood of heightened sensitivity of trans elders due to the consistent and constant nature of this abuse.

It is humiliating for a trans person to be denied their identity, and police should be familiar and comfortable with inclusive speech, such as avoiding misgendering someone (i.e. using the individual's preferred gender pronoun) and the importance of using the name of a trans person's choice.

H) & I) Proposals or initiatives which may help to safeguard and empower LGBTI elders.

There is evidence that few LGBTI elders (aged 65 years or more) who experience discrimination on the basis of their sexual orientation, gender identity or intersex status access regulatory bodies, complaint and advocacy services (REBAS)

[11] I.e. a trans woman being recognised as a woman or a trans man as a man.

for information or support. There is a need for REBAS organisations to better understand the experiences of LGBTI elders in order to develop strategies to enhance LGBTI accessibility.

Key elements for consideration by REBAS to protect and empower LGBTI elders would include:

- Widespread legal education campaigns
    - to raise awareness of the exclusionary effects of hetero-normativity and its barrier to inclusive health and care services,
    - to impress upon families/carers that abuse on the basis of sexuality and gender identity is unlawful, and
    - to empower elders who are victims of abuse to seek protection and redress.
- Specially targeted workshops to assist LGBTI communities complete end-of-life documents, including Wills, AHDs, EPAs and EPGs. Due to their increased vulnerability, it is vital that the LGBTI cohort document their wishes.
- Readily accessible complaints mechanisms which are clearly identified as LGBTI-friendly, to alleviate concerns that seeking help could 'backfire'.
- Active engagement by support and complaints agencies with the LGBTI community to build the confidence of LGBTI elders to access these agencies and to be better informed as to their rights (this could, for example, include a visible presence at events such as Pride Fairday).
- Consistent anti-discrimination laws across all states and territories and concomitant licensing obligations for service providers (e.g. accreditation standards to include LGBTI inclusivity).

Decision-making processes

Aged care providers have indicated to us their reliance on prescribed decision-making hierarchies which privilege biological family. This is problematic if a partner is present but not clearly identified, and can disregard 'families of choice' (LGBTI elders' support network) who may have a close relationship with and understanding of the needs of the individual concerned. Greater sensitivity to the role of non-family support networks would provide decision-making more closely aligned with the person's wishes.

Self-determination is undermined by the application of Guardianship, the implications of which are often poorly explained. Other options such as supported decision-making[12] are relatively seldom on the agenda, despite having the potential to avoid legal and social pitfalls of full guardianship. An individual's rights and autonomy would be better protected by legal frameworks which emphasised the benefits of supported decision-making processes and stressed guardianship as a last resort.

A contentious area in residential aged care is the 'rights' of residents who are deemed to have 'lost capacity' to consent to sexual relationships. Generally there are no guidelines for staff or guardians to assess whether the relationship poses a risk to the individual/s concerned and whether or not it is 'consensual'. In the absence of guidelines, rights of privacy are breached (the activity reported to family) and the sexual rights of the concerned individuals are alienated (couples are kept apart or moved to different facilities). Although it is imperative that facilities guard against sexual abuse, not all intimate activity can be placed in this category. A more nuanced approach to 'capacity to consent' needs to be taken, as well as training in the indicators of well-being and ill-being that signal whether a relationship is welcomed.[13]

Taken together, we see there is need for greater sophistication and flexibility in issues of consent and decision-making.

[12] 'Supported decision making is a recognised alternative to guardianship through which people with disabilities use friends, family members, and professionals to help them understand the situations and choices they face, so that they may make their own decisions without the "need" for a guardian' (Blanck & Martinis, 2015 in 'Capacity and Rights in older people – what is the role of the health professional?', Carmel Peisah, Capacity Australia, UNSW Uni Sydney).

[13] Dr Cindy Jones, 2014, *Sexualities and Dementia: Education Resource for Health Professional,* DTSC, Griffith University, p 23.

LGBTI Inclusivity training

Widespread inclusivity training within the aged care sector, health and housing sectors and other support agencies would greatly increase the safety of LGBTI elders, whose existence and special needs have, to date, been largely overlooked.

Mandatory accreditation to the National Standards for LGBTI Inclusivity (Rainbow Tick or similar) would provide a highly desirable safeguard for cultural safety as well as set an agreed benchmark.

A State Government incentive scheme to encourage preferred providers and major services (such as hospitals) to attain accreditation for LGBTI Inclusivity would be very welcomed.

Safeguards through community building

Elders' vulnerability is exacerbated by loneliness and social isolation.[14] LGBTI elders are at higher risk of social isolation compared to their heterosexual peers, being less likely to have family supports[15] and less likely to be in involved in mainstream seniors' activities or to seek mainstream support services.

State government support of community initiatives to increase social opportunities for LGBTI elders would be an excellent protective measure. For example, GRAI is developing a befriending and social outreach project to provide social support for LGBTI elders. This aims to build social connections for potentially isolated individuals and also to be a conduit to legal information and other resources.

Advocacy services

It is widely suspected that elder abuse is grossly underreported, and with an ageing national demographic this is likely to be an increasing problem. Meanwhile, advocacy services and family mediation services are under resourced, limiting their profile and capacity. An increasingly vulnerable population needs a robust advocacy regime, operating in a variety of ways. It is imperative that advocacy agencies (such as Advocare), community legal centres, OPA and others, be properly resourced and enabled to run innovative community outreach activities, including 'roving' advocates at readily accessible venues, along with creative projects (displays, art-based approaches) to help people identify and confront elder abuse.

An increased level of educative services delivered by advocacy services to service providers could also help to clarify the obligations of service providers and carers to uphold the rights of LGBTI elders. Workshops and factsheets could particularly shed light on some of the 'grey' areas, such as consent.

J) Other issues

Lack of homogeneity

Although the acronym LGBTI has been used throughout this submission, it is important to acknowledge the lack of homogeneity within this diverse cohort. Sexuality, gender identity or intersex status, are overlaid with different life experiences and unique individual characteristics. Intersecting identities such as ethnicity impact significantly on an individual's life course, and, for example, Aboriginal and Asian LGBTI people are more likely to be disadvantaged than

[14] Australian Law Reform Commission, *Elder Abuse Issues Paper (IP 47)* (June 2016) <https://www.alrc.gov.au/sites/default/files/pdfs/publications/ip47_whole_issues_paper_47_.pdf> [40].

[15] LGBTI elders are twice as likely to be single, 2.5 times more likely to live alone and 4 times less likely to have children than the 'general' population and also less likely to have regular contact with their biological families. Peter Keogh et al, *LGBT matters: The needs and experiences of lesbians, gay men, bisexual and trans men and women in Lambeth* (2006) Lambeth Council <http://www.sigmaresearch.org.uk/files/report2006c.pdf >.

their Anglo-European counterparts, and also more likely to be rejected by their families should their sexuality/gender identity be revealed.[16]

What LGBTI elders do have in common is a coming of age in an era where differences in sexuality and gender identity were little tolerated by the Australian society, and widespread lack of understanding of (and empathy for) their human rights prevailed. Regrettably, the latter condition still has some currency.

Lack of LGBTI data

Lack of statistical data on LGBTI populations bedevils social and legal reforms. Despite advocacy by GRAI and other LGBTI organisations nationally,[17] data stewards and data stakeholders – e.g. the Australian Bureau of Statistics (ABS), the Australian Institute of Health and Welfare (AIHW), the Attorney-General's Department (AGD) and the federal Department of Health – are yet to agree on appropriate questions to gather information on sexual orientation, gender identity and intersex status.

It is important that West Australian agencies responsible for data collection in legal, health and social welfare fields engage with this national debate and align State data collection to provide robust, useable information that also 'future proofs' the protection of legacy data.

Conclusion

Internalised ageism and homophobia blind many LGBTI elders to their own situation, and heteronormativity blunts community notice. A concerted effort is needed to promote and support safe ageing environments for LGBTI elders, whether in the community or in formal care, and we hope this Elder Abuse Inquiry will lead to pathways to improve their protection and well-being.

Thank you for the opportunity to contribute this submission to the inquiry. We would be happy to appear before the Committee if that is helpful.

My contact details are listed below, should you require further information or clarification.

Yours sincerely

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[16] Marisa Taylor, 'LGBT people of colour more likely to face poverty', *Al Jazeera* (online), 23 April 2015 <http://america.aljazeera.com/articles/2015/4/23/lgbt-people-of-color-more-likely-to-face-poverty.html>.; *Steven Lindsay Ross, 'Homosexuality and Aboriginal culture: a lore unto themselves', Archer Magazine (online), 20 October 2014 <http://archermagazine.com.au/2014/10/homosexuality-and-aboriginal-culture-a-lore-unto-themselves/>.*

[17] The federal department of Health convened a roundtable on 29 June 2017 with the LGBTI National Ageing and Aged Care Working Group and senior officers from the data collection sector, including the ABS, AIHW and the AGD.