

# Peter Foster MLC

Member for Mining & Pastoral

Hon. Peter Foster MLC  
Committee Chair  
Standing Committee on Environment and Public Affairs

By email - [env@parliament.wa.gov.au](mailto:env@parliament.wa.gov.au)

Dear Mr. Foster,

Thank you for the opportunity to provide a written response to **Petition 068 – LGBTIQ+ rights in Western Australia**. The petitioners raise a number of concerns relating to various laws which impact LGBTIQ+ people in Western Australia.

I will attempt to summarise the petition for the Committee below.

In August of this year, the Law Reform Commission released the final report from Project 111 – Review of the Equal Opportunity Act 1984 (WA). The report made a number of recommendations directly impacting the LGBTIQ+ community, relating to gender identity, sex, sex characteristics, sexual orientation, and religious exemptions to anti-discrimination laws.

It is not the petitioner's stated intention to revisit those recommendations, which have been broadly supported by both state and national LGBTIQ+ advocacy organisations. The Government has stated that it is prepared to act on the recommendations contained in the report in the near future, which has been widely welcomed.

While the Equal Opportunity Act 1984 deals with discrimination against trans and gender diverse people, and the recommended changes will strengthen protections, the Gender Reassignment Act 2000 establishes the process of gender recognition.

At present, trans people must apply to the body established under the Act – the Gender Reassignment Board – and satisfy a rigid set of criteria to be granted a gender recognition certificate.

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49/5 Sharpe Avenue, Karratha, WA 6714

☎ 9144 4187

✉ [peter.foster@mp.wa.gov.au](mailto:peter.foster@mp.wa.gov.au)

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Several Australian States have a far more streamlined, and easier to navigate, process administered by their equivalents of the Department of Births, Deaths and Marriages.

The Australian Senate Community Affairs References Committee produced a report in 2013 (*Involuntary Or Coerced Sterilisation of Intersex People in Australia*) which made a series of recommendations which would make informed consent and human rights the primary factors in decisions on medical interventions. These recommendations have not been adopted nationally, but it is within the State's power to legislate.

The ACT has drafted legislation to ban deferrable medical interventions on intersex people's sex characteristics until that they can make the decision themselves.

Altruistic surrogacy services in WA are limited to heterosexual couples and women only, and commercial surrogacy is unlawful. WA is an outlier in this respect; New South Wales, Victoria, South Australia, Tasmania and Queensland allow any person to be an intended parent under surrogacy arrangements.

The petition lists SOGICE (Sexual Orientation and Gender Identity Change Efforts,) commonly referred to as conversion practices or conversion therapy. Matters relating to conversion practices have been raised in the ongoing inquiry into the Esther Foundation (check committee name and progress) being conducted by the Legislative Assembly Education and Health Standing Committee.

Legislation has been passed to prohibit the practice as part of a national code of conduct for unregulated health workers. However, LGBTIQ+ advocates have expressed serious concerns about the practice's prevalence in other settings. Other jurisdictions - Victoria and the ACT in particular - have a more comprehensive ban in place.

Issues around how best to include, consult and provide services to the LGBTIQ+ community are dealt with in multiple portfolios. There is an argument to be made that this disadvantages LGBTIQ+ community members. With no portfolio taking a coordinating role, each government agency decides its own approach and sets its own priorities for consulting with and delivering services to the LGBTIQ+ community.

Both Tasmania and Victoria have implemented a whole-of-government model for consultation and service provision for the LGBTIQ+ community. The South Australian Government has recently announced the formation of an LGBTIQ+ Advisory Council with the aim of achieving "true inclusion for members of the LGBTIQ+ community in South Australia."

In conclusion, despite positive strides, LGBTIQ+ people in Western Australia appear to have less rights and legal protections as LGBTIQ+ people do in other Australian states.

Kind regards,



**Peter Foster MLC**  
**Member for Mining and Pastoral Region**

**23 November 2022**