

While we welcome the government's recent announcement regarding the review of the Equal Opportunity Act, we remain deeply concerned that the rights of LGBTIQ+ Western Australians have fallen behind the rights of LGBTIQ+ people in other Australian States. This is causing preventable harm and disadvantage to Western Australians. We call on the Legislative Council to inform itself of these impacts, and accordingly amend Western Australia's laws in relation to:

Equal Opportunity Act

In consultation with the LGBTIQ+ community, implement the recommendations of the Law Reform Commission's review of the Equal Opportunity Act ([Project 111](#)) in a timely manner to update anti-discrimination protections for LGBTIQ+ people.

Our laws should protect everyone equally. However, LGBTIQ+ Australians are overrepresented among those with poorer mental health and other health issues, largely due to anticipation and fear of stigma, discrimination, abuse, violence, and exclusion. The [Private Lives 3](#) report, Australia's largest national survey of the health and wellbeing of LGBTIQ+ people, clearly illustrates this. The report, developed in consultation with representatives from across states, represents Western Australians with 9.8% of all participants. Updating the Equal Opportunity Act will better protect LGBTIQ+ Western Australians from discrimination thereby preventing poorer health outcomes and associated disadvantages. The Law Reform Commission's final report was broadly accepted by the government, with further consideration to be given to the extent that the recommendations will be implemented. We urge the Attorney General's office to work with community to ensure the legislation responds to the needs of groups impacted by discrimination and vilification. In particular, we endorse the recommendations contained in the [Equality Australia](#) review submission.

Gender Recognition

Abolish the Gender Reassignment Board and ensure trans and gender diverse people can easily update their birth certificates for legal gender recognition, without the need for surgery or any other medical treatment.

Trans and gender diverse people in WA currently face cruel and unnecessary barriers to update their birth certificates to match their gender identity, or they simply do not have the option (as is the case for non-binary people). Reforming the WA gender recognition process will improve the overall health of trans and gender diverse people; the significant barriers to affirming gender identity contribute to the poorer health of trans and gender diverse people in relation to the broader population. Some states have already addressed this issue, and others have plans to do the same soon. In WA, recommendations from a 2018 Law Reform Commission report ([Project 108](#): the review of WA legislation in relation to the registration or change of a person's sex and/or gender and status relating to sex characteristics) are yet to be reviewed / actioned by the WA government, and are no longer best practice. Attempts to discuss progress have been largely ignored by the government to date.

Conversion Practices

Implement comprehensive protections against conversion practices and ideologies that seek to change or suppress sexual orientation or gender identity in line with the [SOGICE Survivor Statement](#), including the civil response scheme and support for survivors.

Conversion practices have occurred in Australia historically and persist today, despite misconceptions that they are a thing of the past. Conversion practices in the modern day are found in a variety of settings, particularly in informal religious ones, underpinned by the idea that LGBTQ+ people are broken and can be fixed. These ideas have since been discredited by the psychological community, and the United Nations High Commissioner for Human Rights has listed conversion therapy as torture / ill-treatment. There is significant evidence demonstrating the harm of these practices and the effectiveness of affirmative practice for LGBTQ+ communities. Despite all of this, they continue in WA

as illustrated by the recent [inquiry](#) into The Esther Foundation, a residential facility for women and girls experiencing mental health / substance abuse concerns. However, the government does not currently have the power to address conversion practices when they occur in services that do not receive direct Government funding, nor does it have the expertise to ensure they are referring LGBTQA+ people to safe and appropriate services. The Premier promised last year to ban conversion practices in WA, but the legislation amendments fail to target the use of the practice in religious and educational settings. Victorian law passed in 2021 explicitly addresses this issue, and is a model that should be carefully considered by the WA government.

Intersex Interventions

In line with the [Darlington Statement](#), end deferrable medical interventions on people with innate variations of sex characteristics (often called Intersex or DSD) without informed personal consent.

In WA, people with innate variations of sex characteristics are still routinely subject to non-essential medical interventions including surgical and hormonal interventions without their personal consent, often as infants and children. These interventions can have lifelong consequences, including trauma, shame, scarring, loss of sensitivity, infertility, and potential dependence on medical interventions. An Australian Human Rights Commission report ([Ensuring Health and Bodily Integrity](#)) identified a lack of evidence for these interventions, differences in viewpoint between mental health and other clinicians, and ongoing risks of harm in the absence of law reform. Like all people, intersex people have the right to bodily integrity, physical autonomy and self determination, as well as the right to affirmative health care. While the ACT and Victorian governments have made commitments to bring an end to these harmful practices, intersex issues remain poorly understood by WA government representatives, who often conflate them with trans / gender diverse issues.

Surrogacy

Create equality of surrogacy access for LGBTQIA+ people, particularly men and non-binary people.

The LGBTQIA+ community is overrepresented in fertility services. However legislation has been written and delivered with heterosexual couples in mind, and often does not reflect the diverse needs of the LGBTQIA+ community. Current regulation is heavy handed with regard to LGBTQIA+ parents, surrogacy in WA is limited so many men and non binary people are forced overseas to make their families, and the cost of obtaining fertility services is prohibitive with little pricing regulation. The state government commissioned an [Independent Review](#) of the Human Reproductive Technology Act 1991 and the Surrogacy Act 2008 in 2019, and is currently conducting consultations to inform new legislation. However, the review fails to adequately address the needs of LGBTQIA+ Western Australians seeking to start families.

Whole of Government Approach

Ensure whole of government inclusion in laws and policies to address social, economic, and health inequality, with clear accountability to the community.

Policy and programs that address the needs of LGBTQIA+ people require appropriate expertise and infrastructure. For example, while there was some initial consultation with community members in its development, the [WA LGBTI Health Strategy 2019-2024](#) has not since progressed as far as we are aware, despite repeated requests for updates. Health services (and other services including aged care and education) remain inconsistent in the provision of adequate and safe services for LGBTQIA+ communities and are in significant need of improvement. The involvement of LGBTQIA+ organisations that are already contributing to this important work is vital to self-determination. However, government support, where it has occurred, has been disparate and piecemeal. We recommend the establishment of a LGBTQIA+ portfolio based on the Victorian or Tasmanian model, with funding that allows LGBTQIA+ services to build capacity and plan for the long-term.