Equality Tasmania

Supplementary submission on transgender Australians and blood donation

To the AHRC inquiry into current and emerging threats to TGD human rights

Introduction

The following supplementary submission looks at the current state of rules governing transgender blood donation in Australia, the inconsistency and irrationality of these rules and their discriminatory impacts.

We recommend that the current policy be replaced by gender neutral individual risk assessment.

Group risk assessment vs individual risk assessment

Several countries, including the UK, Canada and the US, have moved away from "group risk assessment" of HIV risk, in which individuals are deferred from donating blood based on the group to which they belong, in favour of what is known as "individual risk assessment" (IRA). With IRA, potential donors are screened for the HIV risk of their recent sexual activity (i.e., anal sex with multiple partners). This applies to all donors, regardless of their gender identity or sexual orientation.

The move to IRA to screen for HIV risk by these countries is based on years of empirical research, particularly that conducted in the early 2020s. These studies have shown that automatically excluding all individuals based on a category to which they belong, is no longer necessary in terms of blood safety (e.g., Germain, 2020; Park et al., 2020; for report see JEA, 2023).

Australia, however, continues to use "group risk" assessment when it comes to its donor screening questions for HIV. This means all men who have sex with men, and transgender people who have sex with men, must remain abstinent for a period of three months before being able to donate blood. This also applies to those in long-term monogamous relationships.

HIV incidence rates in Australia

Lifeblood's continued use of "risk group" assessment is despite HIV rates in Australia being low relative to countries that have moved away from these inequitable policies. Based on the Kirby Institute's Annual Surveillance Report on HIV infection, when excluding 44 individuals who

would already be deferred from donating based on drug injection use, only 273 men who had sex with men were diagnosed with HIV in Australia in 2022, showing a 57% decline since 2013. Additionally, over the nine years between 2013 and 2022, only 55 people diagnosed with HIV identified as transgender (Kirby, 2023). Given only 3% of Australians donate blood each year and the window period for not being able to detect HIV from blood samples is very small (a short window within a 3-month period), the chances of any of these individuals infecting the blood supply is very unlikely, with scientists arguing that it no longer poses a meaningful risk to blood recipients (e.g., Germain 2020). Importantly, whatever small risk there may be, would be detected with Individual Risk Assessment donor screening questions.

The inconsistency and irrationality of Lifeblood's current "group risk" screening policies.

The following two case studies highlight the problems arising from Lifeblood's transgender screening policies.

Transgender women

On the 1 June 2021, during Senate Estimates hearings, Senator Janet Rice questioned Dr John Skerritt from Australia's Therapeutic Goods Administration about Lifeblood's policy in terms of transgender people donating blood. The questions highlighted the ironies of deferring transgender women from blood donation.

Senator Rice: At the moment, trans women who are having sex with a man, an anatomically male partner, can't donate blood.

Dr Skerritt: At the moment, that is the basis of Lifeblood's submission to us and it was approved.

Senator Rice: Yet that same woman, married to a man, her husband would be able to donate?

Dr Skerritt: Yes. For male donors, the application is male to male sex. That was not considered. So it is not broader than that, although there are also sex workers and others.

Senator Rice: A trans woman married to a man can't donate blood. The man she is married to can donate blood.

Dr Skerritt: That was based again on Lifeblood's analysis of the prevalence of HIV in those specific cohorts.

Senator Rice: Don't you acknowledge that this is frankly ridiculous?

Dr Skerritt: Well, it's open, as I've said. I'm sure Lifeblood would welcome advice. I shouldn't speak for them, but I will. I think we would both welcome evidence based information.

Senator Rice: Professor Skerritt, if it were the case that there were higher rates of HIV, STIs and bloodborne diseases associated with a particular ethnic or religious group, would you defer all members of that group without any consideration for discrimination and stigma?

Transgender men

Instead of moving away from such discriminatory "group risk" policies, Lifeblood appears to have increased its focus on transgender people as a whole, rather than on HIV risk based on their individual circumstances.

A transgender man recently contacted Equality Tasmania about changes he had experienced when donating blood. This individual has been donating blood for 10 years and Lifeblood was aware that he was a transgender man. He was in a committed relationship with a cis-gendered woman. In the past he had been asked the same questions about having had sex with another man, as is the case for all men. However, on this occasion he was asked if he had had sex with a transgender person. This was new, as was acknowledged by staff at the donor centre.

This person had previously been assessed as a man in a sexual relationship with only a woman, and therefore with no risk factors. This same individual in a committed relationship with the same woman, now comes under scrutiny when it comes to Lifeblood's outdated "group risk" (i.e. all transgender people) screening questions.

In both the transgender woman and transgender male examples above, a move to Individual Risk Assessment, like in the UK, Canada and the US, would remove these outdated discriminatory policies, while also ensuring the blood supply remains safe (FAIR, 2020).

The impacts of transgender discrimination in blood donation

The current policy of deferring transgender women and asking extra questions of all trans people has a range of negative impacts.

It is inherently discriminatory because, for no rational reason, it treats all transgender people differently to cisgender people.

It stigmatises transgender people as susceptible to disease and a threat to public health.

It stops transgender people from performing what Lifeblood says is an important humanitarian and patriotic duty, giving blood.

It cuts off a new source of safe blood for those Australians in need.

For all these reasons we recommend that the current transgender screening policy be replaced by gender-neutral individual risk assessment.

References

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