

Current and emerging threats to TGD human rights: Rainbow Futures WA Submission

Please accept this submission from Rainbow Futures WA into the Australian Human Rights Commission's national project mapping threats to trans and gender diverse (TGD) human rights in Australia.

About Rainbow Futures WA

Rainbow Futures WA is a consortium of WA-based LGBTIQ+ community organisations and individuals concerned with the long-term well-being of the community. It has grown out of a series of community gatherings, bringing together members of LGBTIQ+ groups and individuals around WA, to work together and advocate for change.

We have a wide variety of experience within our Steering Group and amongst our members, including lived experience as TGD people and advocates, community outreach, organisational development, research and more. Additionally, we coordinate a working group of independent TGD advocates and allies in WA who have been working on gender recognition reform, and responses to community needs and concerns for the last two years.

We know that community is strongest when we work together, and this is how we approach all our work and advocacy for LGBTIQ+ rights in WA. Our submission encompasses information based on community consultations and collaboration with TGD communities since our inception in 2019; however, for many individuals involved in this submission, our experience, knowledge and advocacy for TGD rights spans decades.

1. Anti-trans mobilisation, dis- and misinformation, and extremism and radicalisation

Anti-trans Disinformation

The Australian Christian Lobby is embarking on another 'road show' to regional areas in WA.

Trans and gender-diverse issues will be centrestage in the lead-up to the next state election (in 2025) as the Liberal Party has selected candidates who have publicly made transphobic and homophobic comments. Disinformation is already being spread by the leader of the Liberal Party, Libby Mettam, who has announced that if elected, the Liberals will undertake an inquiry into gender-affirming healthcare, on the back of the Cass Review coming out in the UK. Given that the opposition is ramping up its anti-trans rhetoric and the government is not planning on introducing updated equal opportunity legislation before the next state election, TGD people are being left wide open for political and personal attack with little protection offered under law.

Anti-trans Mobilisation

We have seen an increase in recent years of people with anti-trans views mobilising and protesting against LGBTIQ+ events. The people who organise and/or take part are often a mixture of far right, conservative, religious, bioessentialist, trans-exclusionary radical feminists and neo-nazis, all with the common goal of denying the existence and rights of trans and gender diverse people and LGBTQ+ communities more broadly. These groups with broader far-right aims often see anti-trans rhetoric as a means of recruitment into their ranks.

Instances include:

- Approximately 100 people gathered outside the City of Perth Library on Wednesday 17 May 2023 to [protest against an IDAHOBIT Drag Storytime](#) event hosted by the City of Perth and local queer owned bookstore, Rabble Books. The protesters spoke about a need for “family values” to be maintained and to stop society changing, but some also voiced conspiracy theories about Covid vaccinations and fears the World Economic Forum is acting as a secret global government. One protester repeatedly made a Nazi salute towards members of Perth’s LGBTIQ+ community, while vile comments and homophobic slurs were shouted. Protest signs included ‘destroy pedo freaks’, ‘Christ or chaos’, ‘Protect children, reject the LGBTQ Agenda’ and ‘A man must not wear women’s clothing DEUT 22:5’. One protester wore a Trump shirt, while cardboard cutouts of One Nation leader Pauline Hanson stood in the background.
- In June 2023, [protesters targeted a drag storytime event held at Maylands Library](#) with Rabble Books. An organised counter-protest saw hundreds of people from Perth’s LGBTIQ+ community show up to drown out the hateful commentary. DJs played disco tunes and queer anthems, while bubbles filled the air and rainbow pride and transgender flags were held high. In the official area roped off for those protesting against the drag story time event just a handful of protesters mingled, one man taking a loudhailer to shout out his message, but he was drowned out by the much larger LGBTIQ+ contingent. Another group of protesters took up a space behind the LGBTIQ+ community. They held signs featuring biblical quotes, labelling those they opposed as child groomers, and cutouts of One Nation leader Pauline Hanson were prominent. The event taking place in the library that protesters were hoping to have cancelled went ahead earlier in the day, its time moved to ensure the safety of the young children and their families in attendance. Outside the library a series of speakers spoke about the importance of making sure the LGBTIQ+ community is not forced “back into the closet”.
- [Kellie-Jay Keen AKA Posie Parker speaking at a Let Women Speak event on the steps of the WA parliament](#). Her Australian Tour was supported by Conservative Political Action Conference

(CPAC). Keen is known for arguing that transgender people should not be allowed in single-sex spaces, and that transgender youth should not be able to access medical treatments.

- James Parker’s True Identity International ‘Real Lives’ events in mid-2021 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](#). The Albany events were reported to have been attended by more than 500 people and drew more than 50 protesters outside. Gosnells deputy mayor and former state Liberal MP, Peter Abetz lead the Geraldton event.

Political Debate

Conservative political actions and influences are still active in WA. The most recent example is Western Australian Liberal leader Libby Mettam stating in April 2024 that if her party is returned to government at the 2025 state election, they will [ban the use of puberty blockers and cross sex hormones](#) in treating young people experiencing gender dysphoria and ban any surgery being performed on people under the age of 16 (though current guidelines don’t allow surgery on people under the age of 18 except in extreme cases).

At the same time a [petition to WA Parliament](#) calls for parliamentary inquiry into gender dysphoria treatments. The petition was launched by ‘ex-gay’ activist James Parker and endorsed by Dr Brian Walker from the Legalise Cannabis Party. Since being launched in late March the petition has attracted 2336 signatories (at the date of submission)). It has been promoted extensively by the Australian Christian Lobby.

Another recent example is [the motion raised in parliament by One Nation MP Ben Dawkins](#) which called on the Legislative Council to agree that a person’s biological sex is a fact, and that it is not scientifically possible to change your biological sex from one sex to another at a cellular level. The MP asked his parliamentary colleagues to agree to the statement that “in some settings, biological sex is more important than gender identity.” While the motion was not supported it raised distress in the WA TGD community that members of parliament could use their platform to perpetuate transphobic discourse and views in our Legislative Council. TGD Western Australians and their allies protested the motion on the steps of parliament.

2. The law

Gender Recognition

In April 2024, after a targeted campaign for gender recognition and birth certificate reform in collaboration between Rainbow Futures WA, TransFolk of WA and Equality Australia, the WA government announced gender recognition reform with the introduction of the Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 (at the time of writing the Bill was at second reading stage in the Legislative Assembly).

The proposed legislation will abolish the Gender Reassignment Board, which Rainbow Futures WA welcomes. We are equally excited about the removal of the need for medical or surgical treatment to legally update one’s gender, and the addition of ‘non-binary’ as an option (where previously there was only male or female). However, WA is far from achieving best practice. WA’s reforms will still

require people to have a doctor or psychologist verify that they have received 'appropriate clinical care' relating to their sex or gender and there will be significant barriers for young people who do not have the support of both their parents, with 18 being the minimum age someone can legally affirm their gender independently. The reform also conflates sex and gender, failing to meet intersex advocates' Darlington Statement legal classification priorities; the proposed addition of an "intersex/indeterminate" category demonstrates a profound misunderstanding of the needs of people with intersex variations. There is still the possibility of refining these categories as accompanying regulations are drafted, but consultation will be key to avoiding further mistakes.

Through our advocacy in this area and the recent reform announcement, we know that a major threat to TGD rights in WA is TGD people not being treated as experts of their own lives. Instead, the ability for someone to legally affirm their gender is at the hands of medical professionals and parents or guardians. This does not respect the individual's right to self-determination, goes against current understanding of consent for minors (Gillick competence), and further perpetuates the idea that being TGD is a medical issue, rather than a natural variation of human diversity, one that deserves to be respected. Major aspects of our [proposal for gender recognition reform](#) sent to the Premier and Attorney General have been ignored.

Protections Against Discrimination

All people should be protected from discrimination, however for trans and gender diverse people in WA, this is far from reality. The Equal Opportunity Act 1984 (WA) (the Act) currently has the most limited protections for trans and gender diverse people anywhere in Australia.

The Act:

- Assumes a gender binary in its definition of 'gender history', and only protects people living 'as a member of the opposite sex' whose gender has been 'reassigned' under the *Gender Reassignment Act 2000* (WA)
- does not provide protection to those who are presumed to be trans or gender diverse, or who are discriminated against because of their gender expression
- does not protect associates of trans and gender diverse people, such as the child of a trans or gender diverse person who is discriminated against because their parent is trans or gender diverse
- is filled with special carve-outs for religious bodies and educational institutions, allowing them to discriminate against trans and gender diverse people, the broader LGBTQIA+ community and other groups, in employment, education, access to places and vehicles, access to goods, services and facilities, accommodation, land and clubs.

Speaking to the first point, in 2021 Equality Australia consulted with 93 trans and gender diverse people living in Western Australia to put together a submission for reform in the Equal Opportunity Act. Of those 93 people, more than a third identified their gender as non-binary or other than male or female, around 17% were parents to children, and only 8.7% had had their legal gender marker updated. That means that over 90% of the trans and gender diverse population in Western Australia is unlikely to be protected by the Act as it currently stands. The WA government is delaying reform of the Equal Opportunity Act. This means there is a concerning gap in protection for TGD people until the new legislation and the resulting processes with the Department of Births, Deaths and Marriages are enacted.

In 2021, RFWA released the results from a community consultation on LGBTIQ+ priorities in relation to legal reform. One of the clear priorities identified was strengthening anti-discrimination protections.

Conversion Practices

Conversion practices have not yet been banned and still occur in WA. This was evidenced and investigated in the [WA Parliamentary Inquiry to investigate Esther House conversion practices](#). It was also evidenced in the first State of Play report by Youth Pride Network (YPN) and the 'Real Lives' James Parker speaking events detailed above.

Until the Equal Opportunity Act is updated, 'conversion therapy' or 'conversion practices' are not outlawed in Western Australia. The minimising of the harm caused by these practices was underscored by the Attorney-General's recent comments that he 'converted from being a lawyer to a politician'. Our lawmakers have given no indication that they take the threat of harm caused by conversion practices seriously.

Housing

Although anecdotal accounts from TGD community members, services and practitioners suggest that TGD people face a higher risk of homelessness, and are overrepresented in homeless populations, to date there has been little systemic analysis of TGD homelessness in Australia, and mainstream data collection inadequately and inconsistently records sex, sexuality and gender, therefore making it difficult to capture accurate data. What we do know from a survey of 859 14-25 year old trans and gender diverse Australians found that 22% had experienced accommodation problems or homelessness; those who had self-harmed were over 4 times more likely to have experienced homelessness, and those who had ever attempted suicide were over 5 times more likely to have experienced accommodation issues, including homelessness (Strauss et al, 2017).

LGBTIQ+ people are listed in the Parliamentary Inquiry into Homelessness Report released in August 2021, with submissions from a number of LGBTIQ+ organisations. 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.

LGBTIQ+ people are 'more likely to be living with disability, living with mental illness, be older, or have experienced repeated homelessness. The intersectionality of multiple vulnerabilities and marginalised identities is well known to increase vulnerability and risk. In relation to data collection, Although some services have made changes to their databases, there are still many services that do not collect data, and training is needed to ensure that – when appropriate fields are available to report information – staff are comfortable and competent asking questions in a way that is sensitive, respectful, and reassuring of confidentiality. Recommendations included family of origin interventions, school based interventions, peer support, funding for LGBTIQ+ education and training for community and homelessness services, targeted assistance to LGBTIQ+ people at risk of or facing homelessness, and including LGBTIQ+ people as vulnerable sub-groups that require specific attention in Australian housing and homelessness policies.

The first State of Play Report by Youth Pride Network (YPN) in 2021, aimed to document the experiences of LGBTIQ+ young people within the homelessness system, including barriers they face to entry, discrimination they experience within the service, structural issues that make services inaccessible and characteristics of LGBTIQ+ affirming service practice.

Through interviews and online surveys with workers and LGBTIQ+ young people this report found that while there were examples of excellent practice, there were also examples of significant discrimination, that exacerbated the trauma that LGBTIQ+ young people faced in WA. Underlying this was a theme of inconsistency across the sector. The report highlighted that a LGBTIQ+ young people accessing accommodation services are regularly experiencing discrimination, violence and rejection. It found that in some cases, services are conducting abusive practices such as conversion practices within their services on LGBTIQ+ young people. The impacts of these experiences of discrimination include a worsening of trauma and mental ill health, as well as a longer time spent homeless.