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Australian Human Rights Commission  
Inquiry into Current and emerging threats to TGD human rights  
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## **Who are we**

Equality Tasmania (formerly the Tasmanian Gay and Lesbian Rights Group) is Tasmania's leading advocacy group for LGBTIQ+ people and has been since it was formed thirty six years ago. In that time we have advocated successfully for a range of reforms, including the decriminalisation of homosexuality, Tasmania's strong Anti-Discrimination Act, Tasmania's ground-breaking relationship laws, the state's world-leading gender recognition laws, and improved policies in schools, health and policing. We regularly consult with the Tasmanian LGBTIQ+ community to determine our campaign priorities and to inform submissions like this one.

## **Introduction: the three-pronged backlash**

Following the US Supreme Court decision making marriage equality the law of the land in 2015, there was a backlash to LGBTIQ+ human rights. This backlash has taken three forms: a) attempts to roll back existing discrimination protections in the name of "religious freedom", b) attempts to stamp out LGBTIQ+ inclusion initiatives in schools in the name of "parental rights" and c) attempts to undermine trans and gender diverse (TGD) human rights in the name of "women's safety".

In each case, opponents of LGBTIQ+ equality co-opted traditional human rights narratives, matched these up to confected victim narratives and spread misinformation about the threat LGBTIQ+ people pose to the

rights of those “victims”, to justify their attacks on us. For example, “religious freedom” was redefined from freedom from discrimination on the grounds of faith to the freedom to discriminate in the name of faith; clerks and bakers unwilling to serve marrying same-sex couples were portrayed as victims of LGBTIQA+ people who took action against them under existing discrimination law; and the LGBTIQA+ community and our discrimination protections were portrayed as forces of authoritarianism that threaten liberal democracy.

This three-pronged backlash arrived in Australia before marriage equality and was deployed by opponents of that reform to slow it down or defeat it. Fear mongering about “religious freedom”, “parental rights” and “women’s safety”, failed to stop marriage equality. But it has continued since. For example, the “religious freedom” threat narrative gave rise to the Morrison Government’s Religious Discrimination Bill. The “parental rights” narrative informed the campaign against the Safe Schools program. The “women’s safety” threat narrative has given rise to various attempts to ban trans women from women’s spaces.

One reason these narratives became entrenched is that too few non-LGBTIQA+ Australians understood the serious threat they pose. Unfortunately, the Australian Human Rights Commission must bear much of the responsibility. It failed to call out the perversion of human rights that lays at the heart of the backlash. It treated “religious freedom” as redefined by the anti-LGBTIQA+ movement as equal in legitimacy to the LGBTIQA+ community’s call for equality. We are pleased the AHRC is finally reversing this trend by calling out through the false narratives confected to attack trans and gender diverse people.

Tasmania has been at the centre of the three-pronged backlash. Attacks on the Safe Schools program occurred first here, although, thanks to community advocacy, our then State Government allowed the program to continue and began funding its own LGBTIQA+ school inclusion initiatives. The Morrison Government’s Religious Discrimination Bill explicitly overrode parts of the Tasmanian Anti-Discrimination Act, however that bill was withdrawn thanks in no small part to Tasmanian MPs working with an alliance of LGBTIQA+, disability, faith, multi-cultural, union and business groups. Some federal Tasmanian MPs have campaigned to exclude trans women from women’s sport, however, the state parliament has adopted some of the world’s most progressive TGD recognition laws. Tasmania provides the very best examples we have in Australia of how to defeat the three-pronged backlash.

Part of the reason for Tasmanian leadership has been our recent experience of persecution. Laws against male sexual relationships were not repealed until 1997. Tasmania was the only state to criminalise people assigned male at birth from males cross-dressing, a law which had

a devastating impact on trans women and which was not repealed until 2000. We fought hard against those laws and we continue to fight hard against those who would take our human rights away.

## **1) What are some systemic barriers or challenges faced by TGD individuals in accessing essential services such as healthcare, education, housing, or legal support?**

### **Gender services**

In 2023 Equality Tasmania released the results of a community survey into gender affirmation services in Tasmania, "Knowledge, Autonomy, and Respect: Trans and nonbinary people's experiences of medical gender affirmation in Tasmania"

The report identified that TGD Tasmanians experience inconsistent service delivery for holistic gender affirming care with barriers often preventing timely and affordable access, despite clear evidence on recognised health benefits. TGD community members reported issues including service gatekeeping, pathologising trans and intersex experiences, assuming binary approaches to gender affirmation, misgendering, inappropriate questioning, and lack of affordable medical services.

Details of the report, including its recommendations, can be found here<sup>1</sup>: [https://equalitytasmania.org.au/wp-content/uploads/2023/03/Report\\_Knowledge\\_Autonomy\\_Respect\\_Equality\\_Tas\\_March\\_2023.pdf](https://equalitytasmania.org.au/wp-content/uploads/2023/03/Report_Knowledge_Autonomy_Respect_Equality_Tas_March_2023.pdf)

### **Health and education**

In 2021 the results were released from Tasmania's largest LGBTIQ+ community survey report "LGBTIQ+ Tasmanians: Telling us the story". The survey was commissioned by the state government and conducted by the University of Tasmania.

The survey identified the following systemic healthcare issues:

- Healthcare practitioners widely lack knowledge, understanding, and training about LGBTIQ+ specific issues.
- Experiences of discrimination and harassment from healthcare providers. Accounts included deadnaming female patients who are transgender.

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<sup>1</sup> [https://equalitytasmania.org.au/wp-content/uploads/2023/03/Report\\_Knowledge\\_Autonomy\\_Respect\\_Equality\\_Tas\\_March\\_2023.pdf](https://equalitytasmania.org.au/wp-content/uploads/2023/03/Report_Knowledge_Autonomy_Respect_Equality_Tas_March_2023.pdf)

- 14% reported needing to educate the provider because of a lack of knowledge.
- 9% identified being asked inappropriate questions.
- 7% identified specific needs of the person were ignored.

The survey report noted that TGD people continue to face discrimination in health care and education, and continue to be subject to misinformation. It also noted widespread frustration and anger within the broader LGBTIQ+ Tasmanian community about this discrimination and misinformation, and the failure of the state government to take concerted action against it.

A further U Tas study has identified medical training as a contributing factor. "Tasmanian healthcare professionals' & students' capacity for LGBTI + inclusive care (2021)" found clinicians and medical students report inadequate training to prepare them to treat LGBTIQ+ patients, poor awareness of LGBTIQ+ population needs, and a lack of understanding for appropriate referral pathways in regional Tasmania<sup>2</sup>.

## **Housing and employment**

"The Tasmania Project", a whole-of-population survey that disaggregates LGBTIQ+ people, has found<sup>3</sup>:

- LGBTIQ+ respondents were highly represented in lower income brackets and are more likely to work casual jobs or be unemployed than the general sample.
- More likely to experience life limitations due to their health.
- Less likely to own their home and are more likely to experience housing stress.
- COVID-19 had steeper economic, social, and health impacts on LGBTIQ+ respondents, particularly in terms of income and mental health.

The housing risk faced by LGBTIQ+ Tasmanians, as shown by the Tasmania Project, has been examined in Rainbow Renters: differences in housing tenure and satisfaction between LGBTIQ and non-LGBTIQ Australians <sup>4</sup>

In response, the Tasmanian Housing Strategy support document '*Housing support for Tasmanians in need – May 2023*' recognises a need for:

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<sup>2</sup>

[https://figshare.utas.edu.au/articles/journal\\_contribution/Tasmanian\\_healthcare\\_professionals\\_students\\_capacity\\_for\\_LGBTI\\_inclusive\\_care\\_a\\_qualitative\\_inquiry/22991003](https://figshare.utas.edu.au/articles/journal_contribution/Tasmanian_healthcare_professionals_students_capacity_for_LGBTI_inclusive_care_a_qualitative_inquiry/22991003)

<sup>3</sup> <https://www.utas.edu.au/about/news-and-stories/articles/2021/1140-tasmania-project-identifies-inequalities-for-lgbtq>

<sup>4</sup> <https://www.tandfonline.com/doi/full/10.1080/00049182.2023.2251628>

- Ensuring safe emergency accommodation is available for TGD people.
- Supporting for partnerships addressing causes of housing stress and homelessness adversely especially gender diverse and nonbinary young people, and those living in regional, rural and remote areas.
- Providing sensitivity training to prevent discrimination and ensure the timely and appropriate delivery of services to meet the specific needs of LGBTQIA+ clients.
- Ensuring that services are available without discrimination to LGBTQIA+ people escaping family violence.

## **2) How do existing laws or policies either protect or fail to protect the rights and dignity of TGD individuals?**

Gender identity is recognised and protected under the Tasmanian Anti-Discrimination Act 1998. Discrimination protections for TGD people under this Act are the strongest in Australia. For example,

- Discrimination on the grounds of gender identity in faith-based schools and services is prohibited
- Discrimination on the grounds of gender identity in sport is more comprehensively prohibited than in other states
- Incitement to hatred on the grounds of gender identity is prohibited
- Offensive, humiliating, insulting, ridiculing and intimidating conduct on the grounds of gender identity is prohibited

We receive regular reports that some faith-based schools and hospitals continue to discriminate against TGD people despite that discrimination being illegal.

Tasmania's 2019 gender recognition reforms are some of the most inclusive and forward-thinking in the world. They allow,

- those born in Tasmania to obtain a gender-affirming birth certificate without the need for any medical or legal intervention or "verification", and purely as a result of self-identification
- parents to remove gender from their child's birth certificate, or an adult to do the same for their own birth certificate

This legislation has had a profoundly positive impact on the lives of TGD Tasmanians. There was significant misinformation about the "unintended consequences" of the legislation when it passed Parliament. However, a subsequent inquiry by the Tasmanian Law Reform Institute has found no basis for such concerns<sup>5</sup>.

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<sup>5</sup> <https://www.utas.edu.au/law-reform/news-and-events/tlri-news/sex-and-gender-identity-reforms>

At a policy level Tasmania is also leading the nation. The State Government has five LGBTIQ+ departmental advisory groups – health, education, justice, police and emergency services and whole-of-government. Each group is overseeing a range of initiatives that improve outcomes for TGD people. These include training in TGD issues for police recruits and a trans prisoner policy for the state's gaols. These groups are also working on implementing the ABS standards for data gathering on LGBTIQ+ people. On this reform Tasmania is more advanced than the other states.

Of course there are areas where reform is urgent. Tasmania is yet to enact a law prohibiting TGD conversion practices. The state government has proposed legislation to ban conversion practices but there has been significant criticism of this legislation for including exemptions so wide they allow most or all conversion practices.

Current Medicare guidelines do not provide rebates for gender affirming surgery, despite the proven health benefits of such medical treatment.

The Red Cross Lifeblood Service continues to discriminate against TGD blood donors, despite the Service giving in-principle support for gender-neutral individual risk assessment.

### **3) Have disinformation and misinformation and/or other forms of anti-trans discrimination affected TGD individuals' ability to access education, employment, healthcare, housing, migration, and legal rights and if so, how?**

Equality Tasmania consistently receives complaints from TGD people about disinformation, misinformation and discrimination limiting the access of TGD people to a wide range of services.

This is fuelled by discriminatory and misinformed statements regularly made online, in some Tasmanian media and by some Tasmanian political figures.

There is no dedicated LGBTIQ+ legal service in Tasmania to provide TGD people with advice on discrimination remedies or other legal rights and issues. However, Equality Tasmania works with the state's Community Legal Services to provide legal support.

Equality Tasmania also disseminates corrections to disinformation and misinformation through a variety of means including social media posts, media comment and community education.

**4) Have instances of discrimination, harassment, or violence targeting TGD individuals in public, private or online spaces been documented in your research or data gathering? If so, what trends or patterns have emerged?**

Equality Tasmania has documented the complaints we receive. We have noted the following trends:

Misgendering and other forms of discrimination limit TGD access to health care in Tasmania. However, this appears to be decreasing in the public health sector thanks to a concerted LGBTIQ+ awareness training program by the Department of Health. Complaints from the private health sector have not decreased.

We can see the same trend in education. There is a decreasing rate of complaints from the public school system due to an increase in teacher training and student pride groups. Complaints from within the private school systems are, if anything, increasing. This would appear to be because some clergy associated with faith-based schools are prosecuting a crusade against "gender ideology" which demonises gender-affirming practices. As stated above, this is illegal in Tasmania.

There has also been an increase in online hate against TGD Tasmanians and their allies (including Equality Tasmania) since our gender recognition laws passed in 2019, and especially since a conversion practice ban was proposed. Much of this (although not all) seems to be perpetrated by interstate or international social media actors. Much of this hate is illegal in Tasmania.

"Telling Us the Story" identified TGD safety was a major theme. It identified experiences of hate speech, being misgendered, and being targeted by anti-trans groups:

*"Three groups of people were identified as perpetrating hate speech against LGBTIQ+ Tasmanians in the current moment. The most mentioned of the three was religious organisations. LGBTIQ+ Tasmanians hated how 'the views of these church leaders are often expressed in local media and that is very upsetting'. They identified a range of different groups (such as the Australian Christian Lobby, Catholic leaders, the preachers in shopping malls) as perpetrating hate speech against them in public spaces. Second to religious groups was gender critical or TERF (trans exclusionary radical feminist) ideas and the people actively 'campaigning against trans inclusion' and publicised these ideas in the public realm, something they noted as enabling 'a place for those of the community who could also be called hate-mongers to flourish'. Interestingly, a number of prominent gender critical speakers intersected with the third group of people identified as perpetrating hate speech*

*against LGBTIQ+ Tasmanians: politicians. The most significant part of the conversations around these groups was the fact that they could openly speak these ideas, and indeed have them published in the media, and never face any form of punishment."*

### **5) Can you provide insights on anti-trans actions, organising, and/or extremist rhetoric in your community, public spaces or online platforms?**

Anti-transgender protests, rallies, events, and forums have occurred across Tasmania. Examples have included and linked to various news articles:

- Burnie: Anti-trans forum
- Campbell town: People approaching businesses to declare WIO as a radical fringe organisation for supporting TGD people.
- Hobart: Anti-trans rally on Parliament lawns led by UK anti-trans rights activist Posie Parker, Hobart Town Hall meeting seeking to exclude trans women from women's sport, vandalism of trans flag flown outside Town Hall, anti-trans protests and attempted motions to ban trans women from the women's changerooms at the Hobart Aquatic Centre, an anti-trans billboard in Glenorchy, vandalism of a memorial for trans hate-crime victim, Marjorie Harwood
- Launceston: Anti-drag storybook protests outside library, frontpage news story about trans woman in women's change rooms at the Launceston Aquatic Centre which proved to be made up, protests outside shops with trans employees, discrimination cases seeking to exclude trans women from women's events

These activities have advocated for the exclusion of TGD access to bathrooms, sport events, schools, swimming centres, shops, libraries, and healthcare access. They have called for the removal of legislative protections for TGD people and an end to gender affirming health care. They have involved international speakers coming to Tasmania to condemn both TGD people and Tasmanian law. They have also involved known Nazi sympathisers such as members of the Tasman Forth Society (named after a prominent Tasmanian Nazi)<sup>6</sup> which was present at various rallies and took credit for the aforementioned vandalised flag.

Some events have been organised by a local "gender critical" groups such as Women Speak Tasmania and the trans-exclusive lesbian, gay, bisexual (LGB) group. The LGB Alliance has been identified as a far-right and extremist group by the Global Project Against Hate and Extremism (GPAHE).

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<sup>6</sup> <https://www.news.com.au/national/tasmanian-neonazi-groups-disturbing-acts-exposed/news-story/2b112ea7c2762d3ee8d8d22c8eea65ea>

Religious groups, meanwhile, have condemned “gender ideology” and have sought exemptions from the Anti-Discrimination Act, or to block a ban on conversion practices.

Public anti-trans commentary has also been seen from a number of Tasmanian political figures in local and national government.

The impacts were identified in the “*Telling Us the Story*”:

*“While religious groups were also flagged as engaging in forms of demonisation of transgender and gender diverse people in Tasmania, concerns about gender critical/TERF groups were stated throughout the data. These comments again came from both transgender and gender diverse people and cisgender people and were reiterated repeatedly. They were substantially concerned about the harm these groups were doing to the lives of transgender and gender diverse people by making them feel they did not belong in public spaces. Most importantly, they were very distressed that these groups were being provided with a public platform to discuss their views, sometimes by government services. The government was urged to ‘not engage in strawman debates, such as “saving women’s sports” as a guise for promoting TERF ideologies’ and to ‘actively working against TERF propaganda and graffiti / posters’. LGBTIQ+ Tasmanians requested that ‘there need to be real consequences for hate speech and discrimination from our schools, workplaces, police force, and our politicians.’”*

**6) Drawing on your expertise, what measures or initiatives could effectively address root causes of anti-trans sentiment and discrimination within society? What existing initiatives, programs or policies have shown promise?**

As noted above, inclusive laws and policies help foster acceptance of TGD people.

We recommend the rest of Australia adopt discrimination and gender recognition laws that match the standards set in Tasmania.

We recommend the rest of Australia adopt staff training programs, school support programs and data collection policies similar to Tasmania’s.

We recommend the rest of Australia adopt formal, ongoing liaison with government agencies to improve outcomes for TGD people.

But in some areas there is an obvious deficit.

We recommend vocal political leadership at all levels of Government in support of TGD inclusion.

We recommend the enactment of conversion bans and an end to discrimination in Medicare and blood donation.

We recommend more support for TGD people to tell their stories to a wide range of community groups.

We recommend a national focus on challenging anti-TGD hate online.

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