

Equal Identities:

A human rights review of the experiences of
trans and gender diverse people in Australia

March 2026



humanrights.gov.au

Acknowledgements

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Content warning

This report contains content which highlights the experiences and impacts of discrimination against trans and gender diverse people. It also includes descriptions of violence and other content and language which readers may find distressing. Please reach out to these or any other support services as needed:

- **QLife** offers free and anonymous peer-support and referral service for LGBTIQ+ people. Phone: 1800 184 527 | Website: qlife.org.au
- **Lifeline** offers 24-hour crisis support and suicide prevention services. Phone: 13 11 14 | Website: lifeline.org.au
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- **Kids Helpline** offers counselling for children and young people aged 5–25 years. Phone: 1800 55 1800 | Website: kidshelpline.com.au

Aboriginal and Torres Strait Islander people are advised that this document may contain images of persons who have passed away.

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Commissioner's foreword

Trans and gender diverse people are a valued part of our community. They have always existed and make vital contributions to all walks of Australian social, economic, political and cultural life.

In the 21st century, we have seen greater visibility of trans and gender diverse people. We have also witnessed great strides in acceptance and legal protections for trans and gender diverse people in Australia.

Despite this progress, trans and gender diverse people still face significant barriers to the full realisation of their human rights. In recent years, there has been growing opposition to recognising trans and gender diverse people's identity and rights. Accompanying this opposition has been a great deal of misinformation and disinformation.

Equal Identities provides a snapshot of trans and gender diverse people's rights in Australia. The Commission listened to trans and gender diverse people's experiences and reviewed Australian and international research. We heard the distinct experiences and challenges facing trans and gender diverse people from diverse backgrounds, such as Aboriginal and Torres Strait Islander people, culturally and racially marginalised people and people with disability.

Many of the challenges facing trans and gender diverse people have their origins in stereotypes about gender, masculinity and femininity. Understanding the experiences of trans and gender diverse people provides insights which benefit people of all genders.

The submissions that we received addressed many domains of life for trans and gender diverse people. We have grouped the report into 3 themes that lie at the core of human

rights: being safe, being seen and heard (dignity) and being able to participate. Within those themes, *Equal Identities* examines topics such as violence, healthcare, education, employment and sport.

The report's recommendations focus on actions governments and service providers can take. They aim to remove barriers, reduce prejudice and enable trans and gender diverse people to flourish in Australia.

I thank the people and organisations who made submissions and the members of the expert advisory group. I especially thank those trans and gender diverse people who shared your lived and living experience. I appreciate your strength, adaptability and commitment to authenticity.

It is fitting to close with a quote from the edited collection *Nothing to Hide: Voices of Trans and Gender Diverse Australia* (2022). It is from Amao Leota Lu – a Samoan Fa'afafine/trans woman who is a public speaker, performer and advocate. She says:

[T]here are so many things I love about my gender. My creativity, my artform, my playfulness. My joy of just being fully myself. Nothing beats the truth of it. I love my Fa'afafine and trans identity. I wear it as a badge of honour. I think for a lot of trans people, living their authentic self, it's one of those goals that's so important to us because that's all we want at the end of the day. To live and be our authentic self.¹



Dr Anna Cody
Sex Discrimination
Commissioner

Executive summary

Trans and gender diverse people in Australia come from all walks of life. They are neighbours, teachers, parents, nurses, doctors, sex workers, students, artists, professionals, athletes, truck drivers and retirees. They make many contributions to Australian society in community organisations, government, business, cultural and family life. Trans and gender diverse people have the same potential to thrive and flourish as anyone else.

Yet, many trans and gender diverse people experience significant and preventable barriers to their safety, dignity and full participation in society. These barriers span all domains of life, including healthcare, housing, education, employment and public life, and are often intensified for those who also experience racism, ableism, ageism and other forms of marginalisation. Trans and gender diverse children and young people also face additional, distinct challenges.

Despite these documented barriers, trans and gender diverse people, and LGBTIQ+ communities more broadly, are rarely considered or included in data collection, or in the design and implementation of government policies, programs and frameworks that directly affect them.

Equal Identities explores challenges facing trans and gender diverse people across all domains of Australian society. It provides a national human rights review of these experiences, drawing on the expertise, insight, lived and living experience shared in 97 submissions, as well as Australian and international research. It identifies what must change to ensure trans and gender diverse people can fully realise their human rights.

If governments, service providers and civil society address these challenges and barriers, trans and gender diverse people will be able to flourish. That will benefit not just trans and gender diverse people, but everyone in Australia.

The findings and recommendations are organised around 3 interconnected themes:

- being safe
- being seen and heard (dignity)
- being able to participate.

Purpose and scope

This report examines the human rights situation of trans and gender diverse people in Australia. It maps challenges, identifies examples of good practice, and proposes practical reforms for governments and service providers to ensure all people can live safely and participate fully in Australian life.

Methodology

The Commission reviewed a wide range of Australian and international research and considered 97 submissions, including but not limited to subject matter experts from:

- academics and research institutions
- advocacy and activist organisations and groups
- community-controlled health organisations
- healthcare professionals and organisations
- legal professionals and organisations
- policy makers and workers
- service providers.

Human rights framework

This report is based on Australia's commitments under international human rights law, including the:

- *International Covenant on Civil and Political Rights*
- *International Covenant on Economic, Social and Cultural Rights*
- *Convention on the Rights of the Child*
- *Convention on the Elimination of All Forms of Discrimination Against Women*
- *Convention on the Rights of Persons with Disabilities*

- *International Convention on the Elimination of All Forms of Racial Discrimination*
- *Convention Relating to the Status of Refugees*
- *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.*

Although most of these treaties were written with specific groups in mind, their protections extend to trans and gender diverse people. The core principles of fairness, non-discrimination, dignity and safety apply to everyone.

These treaties affirm universal rights to equality, safety, health, education and participation in community life. This report also draws on the Yogyakarta Principles, which explain how these rights apply to people of all sexual orientations, gender identities, gender expressions and sex characteristics.

Being safe

Violence and harassment: Trans and gender diverse people report high levels of physical, sexual and technology-facilitated violence and harassment – in public, at home and online – with significant impacts on health and wellbeing. Abuse also targets allies and people perceived as gender nonconforming. Gaps in legislation and inconsistent anti-discrimination and anti-vilification protections across states and territories create confusion and barriers for trans and gender diverse people seeking safety, protection and redress.

Online safety: Exposure to sustained online hate, disinformation and coordinated harassment (including doxxing) undermines dignity, privacy and participation. Platform policy changes, weak moderation and algorithmic amplification of hostile content are increasing harm, especially for trans and gender diverse young people.



Forcibly displaced people: Trans and gender diverse refugees and asylum seekers face persecution risks, evidentiary burdens in protection processes, limited access to services, and safety concerns in immigration detention. These barriers are compounded by system settings that rarely reflect or accommodate gender diversity.

Justice, policing and imprisonment: Many trans and gender diverse people distrust police due to past harms and current experiences of disrespect and misgendering. In prisons, trans and gender diverse people – particularly trans women – face heightened risks of violence, extended solitary confinement framed as ‘protective custody’, barriers to accessing healthcare and difficulties with legal recognition. Best practice emphasises alternatives to imprisonment, and justice reinvestment.

Housing: Trans and gender diverse people are overrepresented in homelessness and housing stress. Discrimination occurs across private rentals, social housing and crisis accommodation. Gendered service models can exclude or endanger people whose legal markers or affirmed gender are not recognised.

Being seen and heard (dignity)

Data and research: Australia lacks robust, consistent population data on trans and gender diverse communities, which limits policy design, service delivery and accountability. The ABS 2020 Standard provides best-practice questions (sex recorded at birth, current gender, sexual orientation and variations of sex characteristics) and should be adopted across all governments and research.

Health and wellbeing: Trans and gender diverse people experience poorer health outcomes because of stigma, discrimination and service inaccessibility. Systemic barriers include long wait times, costs, under-resourced services, limited provider training and experiences of misgendering, deadnaming and privacy breaches.

Gender-affirming healthcare:

Gender-affirming healthcare is an evidence-informed, individualised suite of social and clinical support. It includes gender-affirming hormone treatment and, for young people, puberty suppression under clinical governance. Contemporary standards and reviews indicate positive outcomes and note the need for ongoing high-quality longitudinal research. However, there are many barriers to accessing gender-affirming healthcare, including cost, geography, gaps in professional training and false information.

Legal recognition: Many people face hurdles updating their name and gender marker across identity documents and systems (including health, employment checks and crisis services). Best practice is self-determination in legal recognition, with streamlined, accessible and nationally consistent processes.

Being able to participate

Religion: Broad religious exemptions from anti-discrimination laws, especially in education and service provision, create uncertainty and can legitimise the exclusion of trans and gender diverse students, staff and service users. Clear, consistent protections are needed to ensure access and safety.

Education: From early learning to tertiary contexts, students require clear policies, trained staff and inclusive environments to learn safely.

Employment: Discrimination persists in recruitment, career progression and workplace culture. A positive duty would obligate employers to, as far as practicable, prevent discrimination and build systems to respond when discrimination does occur.’

Sport: Recent public discussions have contributed to the increased exclusion of trans and gender diverse people from sport. Inclusion policies should be evidence-based, aligned with human rights standards and proportionate to the level and nature of each sport. Community sport should emphasise broad participation.

Recommendations

Recommendation 1

Federal, state and territory governments should introduce consistent legislation to protect LGBTIQ+ people and their associates from vilification, incitement of hatred and threats of physical harm.

Governments should design these laws in consultation with LGBTIQ+ communities, including trans and gender diverse communities, and should include both civil prohibitions and criminal offences.

Recommendation 2

The Australian Government Department of Social Services should require and report on LGBTIQ+ and trans and gender diverse representation in their workforce and on key advisory groups, committees and rapid reviews in key areas such as housing, domestic, sexual and family violence prevention, and community services.

Recommendation 3

The Domestic, Family and Sexual Violence Commission (DFSVC) should establish an ongoing LGBTIQ+ working group, including trans and gender diverse representation, to:

- a. provide advice on initiatives to prevent and respond to gender-based violence, including implementation of the [*National Plan to End Violence Against Women and Children 2022-2032*](#)

- b. develop initiatives to build workforce capacity and understanding of how intersecting forms of discrimination can affect trans and gender diverse people's experiences of domestic, family and sexual violence
- c. strengthen relationships and cross-capacity building between the DFSVC, crisis response services and trans and gender diverse stakeholders.

Recommendation 4

The Australian Government Attorney General's Department, along with state and territory governments, should establish LGBTIQ+ justice working groups that include trans and gender diverse representation. The working groups should protect the human rights of trans and gender diverse people by:

- a. working with criminal justice systems (police, courts and prison systems) to design and monitor policies and practices
- b. working with the trans and gender diverse community to develop methods to identify and track hate crimes, including community reporting mechanisms
- c. advancing priority areas of justice and law reform, including decriminalisation of appropriate offences, justice reinvestment and measures to address and prevent discriminatory behaviours.

Recommendation 5

Federal, state and territory governments should provide sustainable, targeted funding to address capacity gaps in legal service provision for trans and gender diverse people, as identified in the 2025 report [‘A Blueprint for Equality: Resourcing LGBTIQA+ Community Legal Centres’](#).

Recommendation 6

Federal, state and territory governments should ensure crisis accommodation and homelessness support services offer inclusive support and are adequately funded to do so. This includes increasing sector-wide awareness, understanding and capabilities about intersecting marginalisations which affect trans and gender diverse people from diverse backgrounds.

Recommendation 7

All government, government-affiliated and government-funded bodies that collect demographic data should ensure data on gender, sexuality and innate variations of sex characteristics (sometimes known as intersex variations) is collected in line with the ABS [Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables \(2020\)](#). This includes:

- a. collecting data on gender identity from everybody to ensure that health and support services have the data necessary to meet the needs of trans and gender diverse children and adolescents

- b. implementing new data collection protocols in partnership with LGBTIQA+ and trans and gender diverse specific organisations to establish community trust and ensure privacy and sensitivity concerns are understood.

Recommendation 8

The Australian Government Department of Health, Disability and Ageing should require and report on LGBTIQA+ and trans and gender diverse representation in their workforce and on key advisory groups, committees and rapid reviews. The Department should also establish a specific ongoing LGBTIQA+ Health Advisory Group to:

- a. provide advice on matters relating to trans and gender diverse health, and LGBTIQA+ health more broadly
- b. provide advice on relevant government initiatives affecting LGBTIQA+ communities, such as the [National Suicide Prevention Strategy 2025-2035](#) and the [National Action Plan for the Health and Wellbeing of LGBTIQA+ People 2025-2035](#)
- c. advise on LGBTIQA+ health data collection and contribute to the continuous improvement of the Health Data Portal and key national data sets.

Recommendation 9

Healthcare providers and education and training institutions (i.e. universities, TAFEs) should ensure that all healthcare and healthcare-adjacent workers and students receive education and ongoing professional development on inclusive care for trans and gender diverse people. This includes awareness of how intersecting forms of discrimination can affect trans and gender diverse people's health and access to healthcare services.

Recommendation 10

Federal, state and territory governments should introduce or amend legislation to ban conversion or suppression practices. This legislation should follow the following principles:

- a. design the legislative framework in consultation with survivors of conversion or suppression practices
- b. apply the ban on conversion and suppression practices to both religious and secular settings
- c. make it unlawful to take someone out of the jurisdiction for conversion or suppression practices
- d. allow reporting by third parties
- e. carefully define and provide examples of what is and is not a conversion or suppression practice
- f. include an education plan which covers:
 - i. who is protected by the law
 - ii. how to identify conversion or suppression practices
 - iii. awareness of harm caused by conversion or suppression practices.

Recommendation 11

Federal, state and territory governments should reduce barriers that prevent trans and gender diverse people from accessing all forms of healthcare, including gender-affirming healthcare. Reducing barriers includes:

- a. increasing staff and service resourcing to meet urgent needs on existing waitlists for publicly funded hospitals and clinics
- b. running proactive public awareness campaigns that address misinformation and disinformation which target trans and gender diverse people's healthcare
- c. funding service access for trans and gender diverse people in remote, rural and regional communities.

Recommendation 12

Federal, state and territory governments should:

- a. end pauses on puberty suppressants and other hormone therapies for children and young people
- b. ensure that, in line with other areas of adolescent medicine, *Gillick* competence and clinical standards of care are the framework guiding the provision of healthcare to trans and gender diverse children and young people.

Recommendation 13

The Australian Government should repeal Section 43A of the *Sex Discrimination Act 1984* (Cth).

Recommendation 14

The Australian Government should:

- a. amend section 37(1)(d) and repeal section 38 of the *Sex Discrimination Act 1984* (Cth) and make consequential amendments to the *Fair Work Act 2009* (Cth), as recommended by the Australian Law Reform Commission in its 2024 report ['Maximising the Realisation of Human Rights: Religious Educational Institution and Anti-Discrimination Laws'](#)
- b. request the Australian Law Reform Commission to further review and make recommendations about how to amend the exemption for religious bodies under section 37(1)(d) of the *Sex Discrimination Act 1984* (Cth).

Recommendation 15

State and territory governments should review and amend their anti-discrimination legislation to ensure that trans and gender diverse people have equal access to publicly funded services, including those provided by religious bodies.

Recommendation 16

The Australian Government Department of Education should require LGBTIQ+ and trans and gender diverse representation on key advisory groups, committees and rapid reviews. The Department should also establish an LGBTIQ+ Youth Advisory Group to provide input into:

- a. education policy settings
- b. the role of teachers
- c. curriculum content
- d. targeted anti-bullying program support.

Recommendation 17

Federal, state and territory education departments should review their current policies, practices and curricula to ensure that they support an inclusive model. This model should embed inclusion of trans and gender diverse students as part of teacher training and professional development for all staff across all levels of government funded education institutions.

Recommendation 18

Educational institutions receiving government funding should have policies to prevent discrimination and harassment of trans and gender diverse students, staff and parents.

Recommendation 19

The Australian Government should expand the positive duty in the *Sex Discrimination Act 1984* (Cth) to cover protected attributes outlined in sections 5A, 5B and 5C of the Act.

Language and Terminology

This glossary was developed in consultation with an advisory board of experts and trans and gender diverse people. Some of the definitions have been adapted from TransHub.² We acknowledge that language is always imperfect and changing, and some definitions are contested. The purpose of this glossary is to provide consistency of meaning within this report.

Term	Definition
Brotherboy	Brotherboy is a term some Aboriginal and Torres Strait Islander people use to describe gender diverse people who have a man's spirit and take on men's roles within the community. Brotherboys have a strong sense of their cultural identity. ³ Not all masculine gender diverse Aboriginal and Torres Strait Islander people use the term Brotherboy to describe themselves.
Cisgender, or cis	Cisgender, often abbreviated as 'cis', refers to individuals whose gender identity aligns with their sex recorded at birth.
Gender	Gender refers to the social and cultural norms, behaviours, and identities that societies associate with being male, female, or non-binary. It also refers to gender identity – which is about how a person feels about themselves – and gender expression, which describes how an individual expresses themselves in various contexts. Gender is distinct from biological sex. ⁴
Innate variations of sex characteristics (also known as intersex variations)	People with innate variations of sex characteristics 'are born with physical or biological sex characteristics (such as sexual anatomy, reproductive organs, hormonal patterns and/or chromosomal patterns) that are more diverse than stereotypical definitions for male or female bodies. For some people these traits are apparent prenatally or at birth, while for others they emerge later in life'. ⁵
LGBTIQA+	LGBTIQA+ is an acronym that stands for Lesbian, Gay, Bisexual, Transgender, Intersex, Queer (or Questioning), Asexual, and other sexual and gender identities. The '+' symbol acknowledges the inclusion of additional identities that are part of the broader spectrum of sexual orientations and gender experiences.
Non-binary	Non-binary is a term used to describe gender identities that fall outside the traditional categories of man and woman. Non-binary encompasses a range of gender experiences that may blend elements of both man and woman, neither or something else entirely. Individuals may use various terms to describe non-binary identities.
Sex recorded at birth	'Sex recorded at birth' refers to the classification of a baby as male or female based on sex characteristics observed at birth. Similar expressions include 'sex assigned at birth', 'sex assumed at birth' and 'sex observed at birth'.

Term	Definition
Sexuality	Sexuality refers to a person's sexual attraction, sexual behaviours, and sexual orientation. ⁶ It encompasses a range of identities and preferences, such as heterosexual, homosexual, bisexual, asexual and more.
Sistergirl	Sistergirl is a term some Aboriginal and Torres Strait Islander people use to describe gender diverse people who have a woman's spirit and take on women's roles within the community. Many Sistergirls live a traditional lifestyle and have strong cultural backgrounds. ⁷ Not all feminine gender diverse Aboriginal and Torres Strait Islander people use the term Sistergirl to describe themselves.
TGD	This is an acronym meaning 'trans and gender diverse' (see below). Another version of the acronym is TGDNB (trans, gender diverse and non-binary). Some trans and gender diverse people do not like the shortened acronym, while other individuals and organisations use it regularly. This report only uses the acronym when it is in direct quotations.
Trans and gender diverse	This is an inclusive term that encompasses individuals whose gender identity or expression differs from societal expectations based on their sex recorded at birth. It recognises a broad spectrum of gender experiences, including transgender, non-binary and other gender diverse identities.
Transgender, or trans	Transgender, often abbreviated as 'trans', refers to individuals whose gender identity differs from their sex recorded at birth. This term encompasses a diverse range of identities and experiences, including those who transition socially, medically or both.



Acronyms and Abbreviations

ABC	Australian Broadcasting Corporation
ABS	Australian Bureau of Statistics
AI	Artificial intelligence
ANROWS	Australia's National Research Organisation for Women's Safety
ARCSHS	Australian Research Centre in Sex, Health and Society
AusPATH	Australian Professional Association for Trans Health
AVO	Apprehended violence order
CALD	Culturally and linguistically diverse
CAT	<i>Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment</i>
CEDAW	<i>Convention on the Elimination of All Forms of Discrimination Against Women</i>
CERD	<i>Convention on the Elimination of all Forms of Racial Discrimination</i>
CRC	<i>Convention on the Rights of the Child</i>
CRPD	<i>Convention on the Rights of Persons with Disabilities</i>
Disability Royal Commission	Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
DSM	<i>Diagnostic and Statistical Manual of Mental Disorders</i>
EHRC	Equality and Human Rights Commission (UK)
eSafety	Office of the eSafety Commissioner
GAC	Gender-affirming care
GAHT	Gender-Affirming Hormone Therapy
GnRHa	Gonadotropin-releasing hormone agonist
GP	General practitioner
GSD	Gender and sexuality diverse
ICCPR	<i>International Covenant on Civil and Political Rights</i>
ICD	<i>International Classification of Diseases</i>
ICESCR	<i>International Covenant on Economic, Social and Cultural Rights</i>
IDAHOBIT	International Day Against Homophobia, Biphobia and Transphobia
ILGA	International Lesbian, Gay, Bisexual, Trans and Intersex Association
IVSC	Innate variations of sex characteristics
LLO/GLLO	Police LGBTIQ+ Liaison Officers
MBS	Medicare Benefits Schedule
NDIS	National Disability Insurance Scheme
NHS	National Health Service (UK)
OHCHR	Office of the High Commissioner for Human Rights
PBS	Pharmaceutical Benefits Scheme
SDA	<i>Sex Discrimination Act 1984 (Cth)</i>
SOGICE	Sexual Orientation and Gender Identity Change Efforts (also known as conversion and suppression practices)
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
WPATH	World Professional Association for Transgender Health

1. Trans and Gender Diverse Human Rights

Everyone is entitled to the recognition and protection of their human rights, regardless of who they are. Human rights protections derive from Australian and international laws which require governments to promote, protect and respect people's dignity and ensure fairness and equal treatment. For trans and gender diverse people, the recognition and protection of human rights is essential so they can live as their authentic selves safely and with dignity.

1.1 Context and methodology of this report

- *Equal Identities* grew out of the need to collate and map the human rights challenges facing trans and gender diverse people in Australia.
- The report draws on scholarly articles, research reports and submissions. Submissions came from a mix of individuals, academics and organisations representing LGBTIQ+ advocacy, health providers, social welfare, law, human rights and women's rights.
- Trans and gender diverse people's lived and living experience is central to the report and the research studies cited.

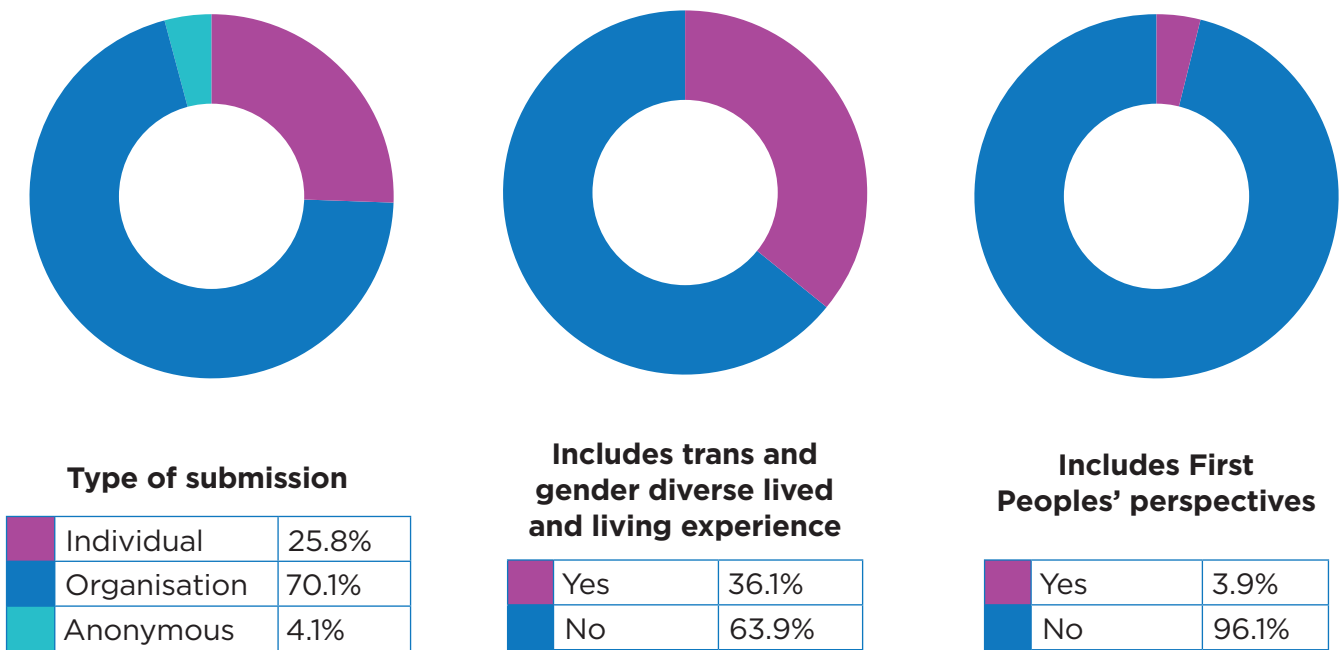
Submission process

This report came out of an identified need to collate and map the interrelated human rights issues facing trans and gender diverse people in Australia. In February 2024, the Australian Human Rights Commission (Commission) called for submissions into 'current and emerging threats to trans and gender diverse human rights' in Australia.

Equal Identities brings together lived and living experience and subject matter expertise from these submissions, along with research, evidence and best practice. It also builds on previous Commission work that has highlighted legal, social and systemic barriers to trans and gender diverse people enjoying human rights in Australia (see Appendix A for a list of previous reports).

The Commission requested that all submissions outline the individual or organisation's relevant experience or expertise. The Commission received a total of 97 submissions over a 10-week period. The following charts show the types of submissions, how many included lived and living experience and how many incorporated First Peoples' perspectives.

Figure 1: Submission overview



- Individual submissions came from:
- trans and gender diverse people with lived and living experience
 - professionals with subject area interest and expertise
 - academic researchers
 - psychologists and psychiatrists
 - lawyers
 - self-described activists
 - other concerned citizens.

- Submissions received on behalf of organisations mostly came from:
- community organisations engaged in frontline service provision
 - human rights advocacy groups
 - professional associations
 - research institutes
 - national bodies.

How submissions were used

The submissions identified many of the key themes and topics for this report. Many provided high level insights, as well as evidence and further reading material. They provided substance and direction, and informed recommendations.

Some submissions raised issues that were not part of the project’s scope. Where possible, we have still included these for discussion.

The Commission’s publication or quotation from a submission is not an indication of the Commission’s endorsement of any views or comments contained in that submission.

High level submission themes

- Broadly, submissions raised concerns about the full recognition and enjoyment of human rights for trans and gender diverse people across several aspects of life. Submissions addressed:
- healthcare
 - education
 - employment
 - housing
 - religion
 - social inclusion
 - criminal justice systems
 - safety.

Submissions that centred the lived and living experience of trans and gender diverse individuals tended to emphasise that their identities were being politicised. They argued that this politicisation was leading to backlash and stigmatisation and that this continues to impact on the wellbeing and livelihood of trans and gender diverse people.

Stakeholders representing diverse community organisations, peak professional bodies, academics and advocacy groups addressed their areas of expertise. They illustrated gaps in policy, legislation or knowledge that limit the full enjoyment of human rights. Those who work directly with trans and gender diverse people also frequently referred to a growth in misinformation and disinformation. They connected false information to increasing rates of bullying, harassment, vilification and threats of violence.

Submissions pointed to a lack of legislative protection across all levels of government. They also identified a lack of trans and gender diverse specific policies, or inclusion in broader policies, across all major domains of life. Service providers frequently do not account for the unique needs of trans and gender diverse people, making services unsafe and unsupportive. As one academic who also works as a psychotherapist summarised:

When services in any of these areas restrict services to a particular gender, or enforce a gender binary, or insist upon treatment according to sex assigned at birth, trans people are not only disadvantaged, but are also excluded.⁸

Several submissions focused on intersecting marginalisations affecting trans and gender diverse people from a range of backgrounds. Those submissions focused on systemic challenges such as racism, ableism and classism alongside other types of exclusion. The submissions emphasised the need for a truly intersectional approach to ensure that *all people* can benefit from the full enjoyment of their human rights.

Intersectionality

The term intersectionality came from Black feminism in the United States. It refers to the way people who have multiple marginalised identities experience discrimination differently. For instance, an Aboriginal woman will experience discrimination differently to an Aboriginal man or an Anglo-European woman. This is because she may experience racism and sexism together, resulting

in a distinct and compounding form of discrimination. When this report talks about taking an intersectional approach or considering intersecting identities, it means considering trans and gender diverse people living with multiple marginalisations – be they based on Indigeneity, race, national origin, disability, age, socio-economic status, religion or any other personal characteristic or attribute.

A small number of submissions questioned the need for the Commission to conduct a review. They rejected the notion that trans and gender diverse people face barriers to the full enjoyment of human rights compared to other groups in Australia. These submissions did not include the lived and living experiences of trans and gender diverse people.

A small number of submissions described a perceived conflict between the rights of trans and gender diverse people and the rights of cisgender people. Usually, they described conflicting rights for cisgender women, children, and in some cases cisgender gay men and lesbians. They linked these perceived conflicts to issues such as trans women's participation in women's sport, laws around gender recognition and single-sex spaces.

While infrequent, a small number of submissions expressed concern that by conducting research into the state of trans and gender diverse people's rights in Australia, the Commission intended to privilege these rights over other groups.

A small number of submissions used this public consultation to attack and denigrate trans and gender diverse people. They made allegations which aligned trans and gender diverse people with sex offenders, paedophiles or as people suffering from severe psychiatric illnesses. These claims lacked factual evidence, and nearly all were individual submissions that failed to meet the Commission guidelines regarding expertise. However, these submissions offer direct insight into the type of harmful rhetoric trans and gender people frequently experience in their daily lives. They are also a stark contrast to the significant body of reputable evidence provided in most submissions.

1.2 International human rights frameworks

- International human rights frameworks centre non-discrimination and upholding the dignity of every person. Although most of these instruments do not explicitly mention trans and gender diverse people, they contain provisions about the universality of human rights.
- The Yogyakarta Principles specifically apply international human rights principles to gender identity and sexual orientation.

International Human Rights Law

International human rights law is founded on the principle that all human beings are born free and equal in dignity and rights, regardless of nationality, ethnicity, gender, religion or any other status. Contemporary international human rights law began with the 1948 *Universal Declaration of Human Rights*. Since then, members of the United Nations (UN) have ratified international treaties which reflect the core values that human rights are universal, interdependent and indivisible, equal and non-discriminatory.⁹

In 1976, 2 significant international treaties entered into force, both of which have been ratified by Australia: the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and *International Covenant on Civil and Political Rights* (ICCPR).

These treaties outline numerous universal rights which are important for trans and gender diverse people, including:

- freedom from discrimination
- equality before the law
- right to liberty and security of person
- right to recognition as a person before the law
- right to privacy
- freedom of expression
- right to just and favourable conditions at work
- right to an adequate standard of living
- right to health
- right to education
- right to take part in cultural life.¹⁰

The UN Human Rights Committee has repeatedly confirmed that the prohibition on discrimination in Articles 2 and 26 of the ICCPR extends to discrimination on the ground of gender identity.¹¹ These articles include the following text:

Article 2(1): Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 26: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.¹²

Similarly, the UN Committee on Economic, Social and Cultural Rights has confirmed that the guarantee of non-discrimination in Article 2(2) of ICESCR extends to discrimination on the ground of gender identity.¹³

Other international treaties also set out human rights protections that apply to trans and gender diverse people. These include:

- *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW)

- *Convention and Protocol Relating to the Status of Refugees* (CPRSR)
- *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT)
- *Convention on the Rights of the Child* (CRC)
- *Convention on the Rights of Persons with Disabilities* (CRPD)
- *International Convention on the Elimination of All Forms of Racial Discrimination* (CERD)
- *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP).

These treaties include rights to freedom from violence and abuse and to participation in decisions that affect a person. For children, this includes the right to have their views heard as their capacity develops. For people with disability, this may include the requirement for supported decision-making processes (rather than substituted decision-making).

Treaty	Ratified by Australia	Came into force in Australia
ICESCR	10 December 1975	10 March 1976
ICCPR	13 August 1980	13 November 1980
CEDAW	28 July 1983	27 August 1983
CAT	8 August 1989	7 September 1989
CRC	17 December 1990	16 January 1991
Optional Protocol for ICCPR	25 September 1991	25 December 1991
CRPD	17 July 2008	16 August 2008
CERD	30 September 1975	30 October 1975

Yogyakarta principles

In 2006, a group of international human rights experts met in Yogyakarta, Indonesia to draft a set of international principles that outline the human rights of LGBTIQ+ people. Unlike UN human rights treaties, the Yogyakarta Principles themselves are not binding. However, the experts agreed that they reflect the existing state of international human rights law.¹⁴ The principles have since been relied upon by a variety of international and State bodies and courts as reflective of existing international human rights law obligations.¹⁵

The introduction to the Yogyakarta Principles declares:

All human beings are born free and equal in dignity and rights. All human rights are universal, interdependent, indivisible and interrelated. Sexual orientation and gender identity are integral to every person's dignity and humanity and must not be the basis for discrimination or abuse.¹⁶

The original Yogyakarta Principles addressed a range of human rights standards around access to justice, privacy, non-discrimination, employment, education, health, immigration, asylum seeking and the right to participate in public life. Ten years after the Yogyakarta Principles, in 2017, the drafting committee added 9 principles. The 'plus 10' principles recognise LGBTIQ+ people in less discussed human rights, particularly those found in ICESCR. The 'plus 10' principles also addressed emerging areas of discrimination and recognised human rights on the grounds of gender expression and sex characteristics.¹⁷

A complete list of all Yogyakarta Principles is available in Appendix B. These are the Yogyakarta 'plus 10' principles:

Principle 30: The Right to State Protection	Everyone, regardless of sexual orientation, gender identity, gender expression or sex characteristics, has the right to State protection from violence, discrimination and other harm, whether by government officials or by any individual or group.
Principle 31: The Right to Legal Recognition	Everyone has the right to legal recognition without reference to, or requiring assignment or disclosure of, sex, gender, sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to obtain identity documents, including birth certificates, regardless of sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to change gendered information in such documents while gendered information is included in them.
Principle 32: The Right to Bodily and Mental Integrity	Everyone has the right to bodily and mental integrity, autonomy and self determination irrespective of sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to be free from torture and cruel, inhumane and degrading treatment or punishment on the basis of sexual orientation, gender identity, gender expression and sex characteristics.
Principle 33: The Right to Freedom from Criminalisation and Sanction	Everyone has the right to be free from criminalisation and any form of sanction arising directly or indirectly from that person's actual or perceived sexual orientation, gender identity, gender expression or sex characteristics.
Principle 34: The Right to Protection from Poverty	Everyone has the right to protection from all forms of poverty and social exclusion associated with sexual orientation, gender identity, gender expression and sex characteristics. Poverty is incompatible with respect for the equal rights and dignity of all persons, and can be compounded by discrimination on the grounds of sexual orientation, gender identity, gender expression and sex characteristics.
Principle 35: The Right to Sanitation	Everyone has the right to equitable, adequate, safe and secure sanitation and hygiene, in circumstances that are consistent with human dignity, without discrimination, including on the basis of sexual orientation, gender identity, gender expression or sex characteristics.

Principle 36: The Right to the Enjoyment of Human Rights in Relation to Information and Communication Technologies	Everyone is entitled to the same protection of rights online as they are offline. Everyone has the right to access and use information and communication technologies, including the internet, without violence, discrimination or other harm based on sexual orientation, gender identity, gender expression or sex characteristics. Secure digital communications, including the use of encryption, anonymity and pseudonymity tools are essential for the full realisation of human rights, in particular the rights to life, bodily and mental integrity, health, privacy, due process, freedom of opinion and expression, peaceful assembly and association.
Principle 37: The Right to Truth	Every victim of a human rights violation on the basis of sexual orientation, gender identity, gender expression or sex characteristics has the right to know the truth about the facts, circumstances and reasons why the violation occurred. The right to truth includes effective, independent and impartial investigation to establish the facts, and includes all forms of reparation recognised by international law. The right to truth is not subject to statute of limitations and its application must bear in mind its dual nature as an individual right and the right of the society at large to know the truth about past events.
Principle 38: The Right to Practise, Protect, Preserve and Revive Cultural Diversity	Everyone, individually or in association with others, where consistent with the provisions of international human rights law, has the right to practise, protect, preserve and revive cultures, traditions, languages, rituals and festivals, and protect cultural sites of significance, associated with sexual orientation, gender identity, gender expression and sex characteristics. Everyone, individually or in association with others, has the right to manifest cultural diversity through artistic creation, production, dissemination, distribution and enjoyment, whatever the means and technologies used, without discrimination based on sexual orientation, gender identity, gender expression or sex characteristics. Everyone, individually or in association with others, has the right to seek, receive, provide and utilise resources for these purposes without discrimination on the basis of sexual orientation, gender identity, gender expression or sex characteristics.

Other international human rights discourse

In December 2010, the UN Committee on the Elimination of Discrimination against Women published 'General recommendation No. 28 on the core obligations of States parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women'. General recommendation No. 28 clarified that CEDAW also covers 'gender-based discrimination against women'. It also explicitly mentioned intersectionality and noted '[t]he discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity'.¹⁸

The CEDAW Committee has been clear that the rights enshrined in CEDAW 'belong to all women, including lesbian, bisexual, transgender and intersex women'.¹⁹ In 2018, the CEDAW Committee issued observations about Australia which welcomed the provisions of the *Sex Discrimination Act 1984* (Cth) that introduced prohibitions against gender identity discrimination. The CEDAW Committee also recommended that Australia abolish requirements that trans women who wanted to legally change their gender undergo medical treatment. This recommendation was to 'guarantee the rights of transgender women to bodily integrity, autonomy and self determination'.²⁰ Section 3.4 on legal recognition of gender discusses this topic in more detail.

In July 2011, the UN Human Rights Council passed resolution 17/19. It tasked the UN High Commissioner for Human Rights to commission a study:

documenting discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, in all regions of the world, and how international human rights law can be used to end violence and related human rights violations based on sexual orientation and gender identity.²¹

This was the first resolution of its kind by any UN agency. Resolutions and other United Nations actions relating to LGBTIQ+ rights followed.²² For instance, since 2016 the UN Human Rights Council has appointed an 'Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity'.²³

Several high-ranking UN officials have also spoken about the urgent need to protect the rights of LGBTIQ+ people. On 17 May 2023 – the International Day Against Homophobia, Biphobia and Transphobia (IDAHOBIT) – António Guterres, UN Secretary-General, declared:

In every corner of the world, LGBTIQ+ people continue to face violence, persecution, hate speech, injustice and even outright murder. Meanwhile, retrograde laws continue to criminalize LGBTIQ+ people around the world, punishing them for simply being who they are. Each assault on LGBTIQ+ people is an assault on human rights and the values we hold dear. We cannot and will not move backwards.²⁴

Significantly, UN Women has also released numerous public statements in support of LGBTIQ+ people, including on their website which states: 'UN Women stands together with, and in support of, all members of the LGBTIQ+ community as we strive to ensure that everyone everywhere, regardless of gender identity, has the same opportunity to live a life free from violence and discrimination'.²⁵

Each section of this report will begin with an overview of some of the more relevant international human rights instruments. They are not an exhaustive list but rather highlight some of the more pertinent articles and principles which support trans and gender diverse people's human rights.

1.3 Introduction to gender diversity

- Gender diversity has always existed. There is evidence from current and historical accounts of gender diverse people across numerous cultures.
- There is no one way to be trans or gender diverse. People affirm their genders in different ways, and this may or may not include medical or surgical interventions.
- With greater rights and protections, trans and gender diverse people have felt safer to be open and live authentically in their affirmed gender.

Histories of gender diversity

Trans and gender diverse people, whether understood in these or other terms, have always existed.²⁶ A recent article in the *Medical Journal of Australia* stated: ‘trans people are not a moral, philosophical or social issue. They are people. The statement “some people are transgender” is a demographic fact, not an ideological position’.²⁷

In Australia, First Peoples cultures have long traditions of people crossing genders. For instance, several Northern Territory First Peoples languages have words to describe a third or non-binary gender:

- Kwarte Kwarte in Arrente
- Kungka Kungka in Pitjantjatjara and Luritja
- Yimpininni in Tiwi
- Karnta Pia in Warlpiri which can be interpreted as ‘like a girl’
- Kungka Wati in Pintipi and Girriji Kati in Waramungu translate to ‘woman/man’.²⁸

There are also examples from rock art and Dreaming stories of people crossing genders.²⁹

Around the world, various cultures similarly have words and cultural roles for gender diverse people. Because language and culture are intertwined, these words do not translate directly to Western words, binaries or understandings of gender. Some examples of gender diversity from Pasifika cultures include:

- fa’afafine and fa’afatama in Samoa
- fakaleitī, leitī and fakatangata in Tonga
- vakasalewalewa in Fiji

- palopa in Papua New Guinea
- pinapinaaine in Kiribati and Tuvalu
- mähū in Hawai’i and Tahiti
- akava’ine in the Cook Islands
- whakawāhine and tangata ira tane among Māori in Aotearoa New Zealand.³⁰

Some people use the acronym MVPFAFF+ to refer to the different Pasifika gender identities and forms of gender expression and sexual orientation.³¹ Among Māori, the word takatāpui traditionally means ‘intimate friend of the same sex’. Now, takatāpui is often used as an umbrella term for all Māori with diverse genders, sexualities and variations of sex characteristics.³²



Examples of terms for gender diverse people from other cultures include:

- Kathoey in Thailand
- Hijra in India, Pakistan and Bangladesh
- Maknyah in Malaysia
- Waria in Indonesia
- nudale asgaya, nudale agehya and asegi among Cherokee in North America
- Sipiniq among Inuit in North America
- Agokwa and Okitcitakwe among Ojibwa in North America.

In North America, many Native Americans and First Nations Peoples now use the word 2Spirit/Two-Spirit as a collective descriptor for the many sexually and gender diverse peoples.³³ However, many now use their own community or tribal terminologies.³⁴ In Australia, some gender diverse Aboriginal and Torres Strait Islander people use the terms Sistergirl and Brotherboy to identify themselves. A Sistergirl is someone recorded male at birth but with a woman's spirit, while a Brotherboy is someone recorded female at birth but with a man's spirit. There are also many trans and gender diverse Aboriginal and Torres Strait Islander people who do not use the terms Sistergirl or Brotherboy.³⁵

In European cultures, there is a long history of gender diversity. Historians have found examples of people who crossed genders or lived non-binary lives from ancient civilisations,³⁶ medieval Europe,³⁷ and in the Modern Era.³⁸ Historians have also documented trans histories in the 20th and 21st centuries in countries like the United States, United Kingdom and Argentina.³⁹ In Australia, too, historians have recorded examples of people living in different genders from the 19th century and histories of trans and gender diverse people in the 20th and 21st centuries.⁴⁰

Defining transgender, transness and gender diversity

The American historian Susan Stryker provides a good definition of the word 'transgender'. It refers to:

people who cross over (*trans-*) the boundaries constructed by their culture to define and contain that gender. Some people move away from their birth-assigned gender because they feel strongly that they properly belong to another gender through which it would be better for them to live; others want to strike out toward some new location, some space not yet clearly described or concretely occupied; still others simply feel the need to challenge the conventional expectations bound up with the gender that was initially put upon them. In any case, it is the movement across a socially imposed boundary away from an unchosen starting place, rather than any particular destination or mode of transition.⁴¹

The definition is intentionally broad because there is no one way to be trans or gender diverse.

What is the difference between sex and gender?

Sex refers to a person's sex characteristics, such as their chromosomes, hormones and reproductive organs. While typically based upon the sex characteristics observed and recorded at birth, a person's reported sex can change over the course of their lifetime and may differ from their sex recorded at birth.

Gender is a social and cultural concept. It is about social and cultural differences in identity, expression and experience as a man, woman or non-binary person. Non-binary is an umbrella term describing gender identities that are not exclusively male or female. Different cultures have their own language and understandings of gender.

Gender includes the following concepts:

- **Gender identity** is about who a person feels themselves to be.
- **Gender expression** is the way a person expresses their gender. A person's gender expression may also vary depending on the context, for instance expressing different genders at work and home.
- **Gender experience** describes a person's alignment with the sex recorded for them at birth i.e. a cis experience or a trans experience.
- **Gender norms** reflect society's expectations about how women and men should behave, express themselves, and take on roles within families and society. These gender roles and how they are recognised can differ among cultures and communities.

The contemporary, Western language of trans and gender diversity evolved from the fields of sexology, psychiatry and medicine. Psychiatrists and sexologists have, since the early 20th century, tried to explain and categorise people whose gender identity or expression was different to their sex recorded at birth.⁴²

The medical understandings about transness presented several challenges. First and foremost, doctors – especially psychiatrists – were the ones defining what it meant to be trans or gender diverse. The medical understandings tended to focus entirely on the body and especially gender affirming surgery. Not all trans and gender diverse people want or need surgery. Nor do all trans and gender diverse people want medical interventions like hormone therapy. Section 3.3 on gender-affirming healthcare expands on this. The medical approach to transness also was binary. Non-binary people did not fit into definitions of transness, and all healthcare approaches and discussions focused on ideas of opposite genders.⁴³

Internationally, trans and gender diverse activists challenged the medical models. Activists gained traction in the 1990s. That was also when many activists adopted

'transgender' as an umbrella term to include anyone whose gender was different to their sex recorded at birth, regardless of medical or surgical interventions.⁴⁴

The terms 'gender queer' (or genderqueer) then 'non-binary' emerged in the early 2000s. The term non-binary gained popularity in the 2010s and has become more common.⁴⁵ Because some non-binary people associate the word 'transgender' with binaries, in the 2020s the expression 'trans and gender diverse' – used in this report – has become more common. However, as language is constantly evolving, it is likely that new terminology will emerge in the future.

The power of visibility

A common theme that many trans and gender diverse people describe reflects the saying

| **'You can't be what you can't see'.**

That is, seeing other trans and gender diverse people in the media and pop culture has given language, connection and ways to understand themselves and others 'like them'.⁴⁶ As trans non-binary Wiradjuri scholar, Professor Sandy O'Sullivan explains, 'trans people everywhere did not just appear when we had access to greater rights, but those rights made our visibility greater'.⁴⁷

There is now greater trans and gender diverse visibility than ever before. This is due to several factors in the 21st century:

- The internet and social media have provided more opportunities and accessibility for trans and gender diverse people to see and connect with others.
- There are more medical options for trans and gender diverse people to affirm their gender (for those who desire medical or surgical transitions).
- Anti-discrimination laws make it safer for trans and gender diverse people to be open. They have legal protections against being fired or being denied access to services because of their gender identity.

As the rest of this report shows, though, while there is more visibility and there are more protections and services, trans and gender diverse people continue to face many barriers to realising their full human rights in Australia.

1.4 Australian legal context

- Australia has federal, state and territory anti-discrimination laws which all include protections for trans and gender diverse people from discrimination in areas of public life. The terminology and definitions of the protected attributes differ across jurisdictions.
- Although the Australian Government has adopted much of the international human rights framework, there are significant gaps which impact on trans and gender diverse people's rights.
- Trans and gender diverse communities are experts in identifying challenges, but there are no formal, ongoing mechanisms to include them in policy-making at the federal level.

Anti-discrimination law

Australia legally recognises trans and gender diverse rights at federal, state and territory levels. This is primarily through anti-discrimination laws in each jurisdiction. Anti-discrimination laws make discrimination unlawful based on personal characteristics known as 'protected attributes'. In federal law, protected attributes are included in the *Racial Discrimination Act 1975* (Cth), *Sex Discrimination Act 1984* (Cth), *Disability Discrimination Act 1992* (Cth) and *Age Discrimination Act 2004* (Cth). Most state and territory anti-discrimination laws include the same protected attributes, along with some others not covered under federal law, such as religion, religious dress or ethno-religious origin.

Since 2013, the *Sex Discrimination Act 1984* (Cth) (SDA) has included gender identity, sexual orientation and intersex status as protected attributes. The SDA applies to the areas of 'work, accommodation, education, the provisions of goods, facilities and services, the disposal of land, the activities of clubs and the administration of Commonwealth laws and programs'.⁴⁸ The SDA contains some exemptions, which sections 4.1 and 4.2 discuss in more detail.

Australian state and territory anti-discrimination laws provide similar protections against discrimination on the

basis of sex, sex characteristics, sexual orientation and gender identity. State and territory laws also use different, additional terms to refer explicitly to trans and gender diverse communities:



Legislation (jurisdiction)	Year added to law	Terms used
<i>Discrimination Act 1991</i> (ACT)	1991/2010 ¹	Gender identity, record of a person's sex having been altered under the <i>Births, Deaths and Marriages Registration Act 1997</i> or a law of another jurisdiction that corresponds, or substantially, corresponds, to the Act , section 26 (Alteration of register)
<i>Anti-Discrimination Act 1977</i> (NSW)	1996	transgender status
<i>Anti-Discrimination Act 1992</i> (NT)	1992/2022 ²	gender identity, gender
<i>Anti-Discrimination Act 1991</i> (Qld)	2003	gender identity, sex characteristics (which refers to biological and physical features related to sex)
<i>Equal Opportunity Act 1984</i> (SA)	1984/2009 ³	gender identity
<i>Anti-Discrimination Act 1998</i> (Tas)	1998/2013 ⁴	gender identity
<i>Equal Opportunity Act 1977</i> (Vic) [replaced by <i>Equal Opportunity Act 2010</i> (Vic)]	2000	gender identity
<i>Equal Opportunity Act 1984</i> (WA)	2000	gender history

¹ Originally the protected attribute was 'transsexuality'. This was updated to 'gender identity' in 2010.

² Originally 'transsexuality' was a protected attribute under the definition of sexuality. This was updated to 'gender identity' and separated from sexuality in 2022.

³ Originally 'transsexuality' was a protected attribute under the definition of sexuality. This was updated to 'gender identity' and separated from sexuality in 2009.

⁴ Originally 'transsexuality' was a protected attribute under the definition of sexual orientation. This was updated to 'gender identity' and separated from sexual orientation in 2013.

Victoria also has the *Gender Equality Act 2020* (Vic), which requires the public sector, local governments and universities to take proactive steps to achieve gender equality. Section 6(8) of the Act states: 'gender inequality may be compounded by other forms of disadvantage or discrimination that a person may experience based on Aboriginality, age, disability, ethnicity, gender identity, race, religion, sexual orientation and other attributes'.⁴⁹ This explicit reference to 'gender identity' means that organisations subject to the *Gender Equality Act 2020* (Vic) must consider trans and gender diverse people's experiences as they develop programs and report on gender equality initiatives.

Despite legal protections, trans and gender diverse people in Australia continue to experience widespread discrimination,

harassment, abuse, vilification and violence. This significantly impacts on trans and gender diverse people's mental health, social inclusion and economic stability.⁵⁰

There is currently no formal mechanism within the Australian Government to include the participation of LGBTIQ+ people – including trans and gender diverse people – to design policies and legislation that directly affect them. A review of federal government department websites found only one LGBTIQ+ specific strategy or plan (the 'National Action Plan for the Health and Wellbeing of LGBTIQ+ People 2025-2035').⁵¹ Some other reviews and plans note that LGBTIQ+ people are a priority population or a greater at-risk group. Yet, there are no clear strategies or mechanisms to incorporate trans and gender diverse people in policy development.



2. Being Safe

Being and feeling safe are fundamental to everyone and are important determinants for health and wellbeing. Many trans and gender diverse people must navigate unsafe environments both in person and online. Indeed, simply being trans or gender diverse can jeopardise people's safety in private and public life – including from institutions designed to protect people.

Recommendation 1:

Federal, state and territory governments should introduce consistent legislation to protect LGBTIQ+ people and their associates from vilification, incitement of hatred and threats of physical harm.

Governments should design these laws in consultation with LGBTIQ+ communities, including trans and gender diverse communities, and should include both civil prohibitions and criminal offences.

Recommendation 2:

The Australian Government Department of Social Services should require and report on LGBTIQ+ and trans and gender diverse representation in their workforce and on key advisory groups, committees and rapid reviews in key areas such as housing, domestic, sexual and family violence prevention, and community services.

Recommendation 3:

The Domestic, Family and Sexual Violence Commission (DFSVC) should establish an ongoing LGBTIQ+ working group, including trans and gender diverse representation, to:

- a. provide advice on initiatives to prevent and respond to gender-based violence, including implementation of the [*National Plan to End Violence Against Women and Children 2022-2032*](#)
- b. develop initiatives to build workforce capacity and understanding of how intersecting forms of discrimination can affect trans and gender diverse people's experiences of domestic, family and sexual violence
- c. strengthen relationships and cross-capacity building between the DFSVC, crisis response services and trans and gender diverse stakeholders.



Recommendation 4:

The Australian Government Attorney General's Department, along with state and territory governments, should establish LGBTIQ+ justice working groups that include trans and gender diverse representation. The working groups should protect the human rights of trans and gender diverse people by:

- a. working with criminal justice systems (police, courts and prison systems) to design and monitor policies and practices
- b. working with the trans and gender diverse community to develop methods to identify and track hate crimes, including community reporting mechanisms
- c. advancing priority areas of justice and law reform, including decriminalisation of appropriate offences, justice reinvestment and measures to address and prevent discriminatory behaviours.

Recommendation 5:

Federal, state and territory governments should provide sustainable, targeted funding to address capacity gaps in legal service provision for trans and gender diverse people, as identified in the 2025 report '[A Blueprint for Equality: Resourcing LGBTIQ+ Community Legal Centres](#)'.

Recommendation 6

Federal, state and territory governments should ensure crisis accommodation and homelessness support services offer inclusive support and are adequately funded to do so. This includes increasing sector-wide awareness, understanding and capabilities about intersecting marginalisations which affect trans and gender diverse people from diverse backgrounds.



2.1 Violence, harassment and intimidation

- Submissions highlighted that there is a growing threat of violence, harassment and intimidation directed towards trans and gender diverse people.
- Physical and sexual violence are increasing and are more prevalent amongst trans and gender diverse people when compared to cisgender peers.
- Gaps in legislation and a lack of cohesion between state and territory anti-discrimination and anti-vilification (hate speech) frameworks generate confusion for trans and gender diverse people seeking protection and redress.

Relevant human rights laws and principles

- **Article 3 of the *Universal Declaration of Human Rights*:** states that ‘everyone has the right to life, liberty and security of person’.⁵²
- **Article 19 of the *Convention on the Rights of the Child*:** calls on States to take appropriate legal, administrative, social and educational measures ‘to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation’.⁵³
- **Article 17 of the *International Covenant on Civil and Political Rights*:** outlines a right to privacy. It states that ‘[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation’. The article also identifies a right to protection by the law against such attacks and interference.⁵⁴
- **Article 5 of the *Convention on the Elimination of All Forms of Discrimination against Women*:** calls on States to take measures to eliminate social and cultural prejudices that are driven by gendered stereotypes or a belief of the inferiority or superiority of one gender over others.⁵⁵
- **Yogyakarta Principle 5 – The Right to Security of the Person:** states ‘[e]veryone, regardless of sexual orientation or gender identity, has the right to security of the person and to protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual or group’.⁵⁶
- **Yogyakarta Principle 30 – The Right to State Protection:** states ‘everyone, regardless of sexual orientation, gender identity, gender expression or sex characteristics, has the right to State protection from violence, discrimination and other harm, whether by government officials or by any individual or group’.⁵⁷

Rising violence, harassment and intimidation

A range of research reports and scholarly articles highlight the growing threats of harassment, intimidation and abuse directed to trans and gender diverse people in Australia.⁵⁸ Multiple submissions described a climate where many trans and gender diverse people live with fear and insecurity about personal safety.⁵⁹

Several submissions referenced statistics found in the joint Trans Justice Project/ Victorian Pride Lobby report 'Fuelling Hate' (2023).⁶⁰ Authors claimed this was the largest report of its kind in Australia, with over 3,000 trans and gender diverse people responding to their survey.

The report offers important insights into trans and gender diverse people's experiences of violence in Australia. Respondents reported high rates of aggressions, misgendering, violence and identity related harms.

According to the report:

- 9 in 10 participants witnessed online anti-trans and gender diverse hate
- 1 in 2 trans and gender diverse participants experienced anti-trans and gender diverse hate
- 1 in 10 trans and gender diverse participants experienced anti-trans and gender diverse violence, including physical and sexual assault
- 8 in 10 participants reported witnessing an increase in anti-trans and gender diverse sentiment since 2020.⁶¹

Submissions provided evidence of physical and sexual violence, harassment and discrimination in public spaces when simply going about their day. They also reported alarming rates of interpersonal violence in the home, including high rates of domestic, family and sexual violence. Australia's National Research Organisation for Women's Safety (ANROWS) cited research illustrating that trans women frequently face abuse:

Some interviewees described verbal abuse, including threats of sexual and physical violence, accompanied by being followed and, in some cases, physical violence (Ussher et al., 2020). Reflecting the higher rates of physical violence experienced by

trans people as compared to cisgender people (Dean et al., 2000), many women had been spat on, hit, had objects thrown at them, and been groped or touched in public spaces including on public transport (Ussher et al., 2020).⁶²

A few submissions identified public bathrooms as a site where trans and gender diverse people, particularly trans women and non-binary people, experience greater risks of harassment and violence.⁶³

Several submissions also noted that abuse and harassment frequently target cisgender allies who advocate publicly on behalf of trans and gender diverse people.⁶⁴ Research shows that public abuse and harassment also extend to individuals who are not trans or gender diverse but are perceived as gender non-conforming. They, too, face being misgendered and being asked inappropriate and intrusive questions about their bodies and gender identity.⁶⁵

A minority of submissions rejected claims of increasing violence targeting trans and gender diverse people.⁶⁶ They asserted that trans and gender diverse people do not experience violence, harassment or discrimination on a systematic level or at rates disproportionate to the general population.⁶⁷ For example, a submission from Active Watchful Waiting (AWW), an organisation that describes itself as dedicated to safeguarding the wellbeing of children in relation to gender identity policies, stated: 'AWW asserts that the narrative of widespread threats and discrimination faced by TGD individuals in Australia is disingenuous and unsupported by empirical evidence'.⁶⁸

These submissions did not provide examples or evidence to support their claims. Nor did they engage with trans and gender diverse people's lived and living experience.

Effects of violence

There is a direct correlation between exposure to violence and harassment and an adverse effect on health and wellbeing.⁶⁹ The Queensland Council for LGBTI Health shared internal data which showed '68% of participants reported having experienced hate speech or vilification and that this

affected mental health, increased stigma and discrimination and affected social and emotional wellbeing'.⁷⁰

One trans individual's submission summarised some of the effects of violence, harassment and intimidation:

We are constantly exposed to vicious and hateful rhetoric from anti-trans individuals that attempt to dehumanise us and paint us as a threat. They think nothing of inciting illegal behaviour, they deliberately create the impression that trans people are not entitled to move freely in the community as citizens. They brag online that there will be results detrimental to trans people from court cases that they are involved in. All of the threats are pointing to escalation. Violence is very close and has already appeared in specific settings.⁷¹

ANROWS provided contemporary research demonstrating that some trans and gender diverse women viewed 'passing' as a survival strategy to reduce the risk of violence. ANROWS made the important observation that freedom from violence should not depend on 'passing'.⁷²



'Passing'

'Passing' is a controversial term within trans and gender diverse communities. It refers to trans and gender diverse people's appearance and expression being perceived as indistinguishable from cisgender people. Historically, doctors expected trans people to 'pass' to grant them access to healthcare such as gender affirming surgery.⁷³

The term 'passing' is controversial because there is an implication that those who are not perceived as cisgender have 'failed' at presenting in their affirmed gender.

Family and domestic violence

The Victorian Royal Commission into Family Violence reported that trans and gender diverse people – especially trans women – experience higher rates of intimate partner violence than cisgender gay, lesbian and bisexual people.⁷⁴

Equality Australia's submission cited findings from their 2020 report 'There's No Safe Place at Home: Domestic and family violence affecting LGBTIQ+ people'. That report found that: 'trans and gender diverse people were 2.7 times more at risk of domestic and family violence than LGBTIQ+ people as a whole'.⁷⁵

Other submissions echoed this claim.⁷⁶ For example, the Australian Research Centre in Sex, Health and Society (ARCSHS) noted:

Trans and gender-diverse populations also experience specific dimensions of [family, domestic and sexual violence] that relate to the invalidation of their gender identity and chosen gender expression, as well as the weaponisation of societal prejudice against trans identities and populations.⁷⁷

Trans and gender diverse people face all the same types of family and domestic violence as cisgender people – be it physical, emotional, financial, coercive control or any other form. The Victorian Royal Commission into Family Violence also noted some distinct forms of abuse trans and gender diverse people – and many other LGBTIQ+ people – face. These include:

- threats of outing
- telling a partner they deserve the violence because of their identity
- misgendering and denying their gender identity
- withholding or threatening to withhold medication such as hormones
- threatening that they will not receive support from systems that are transphobic.⁷⁸

This Royal Commission also noted that, under the law at the time (2016), crisis accommodation and support services could lawfully refuse trans women access if they had not had gender affirming surgery. The final report noted one case in which a trans man had to resume living as a woman to access a support service.⁷⁹ This report discusses crisis accommodation in section 2.5.

Sexual violence

Submissions and research suggest that trans and gender diverse people in Australia experience high rates of sexual violence.⁸⁰ A study by the Kirby Institute at the University of New South Wales found that 53% of trans and gender diverse Australians had experienced sexual assault, rape or sexual coercion, compared to 13% of the general population. The study also indicated that ‘trans and gender diverse people report experiencing sexual assault or coercion at almost four times the rate of the general Australian population’.⁸¹

Submissions reported prisons, schools, universities and sex-on-premise venues as locations where trans and gender diverse people are at greater risk of sexual violence. Submissions identified specific factors that heightened trans and gender diverse people’s risk of sexual violence, including:

- navigating consent
- disclosing trans or gender diverse identity to sexual partners
- a culture of hyper-sexualisation and fetishisation of trans and gender diverse identities, particularly for trans women of colour
- sexual coercion through threats of ‘outing’ or financial control.⁸²

Researchers on sexual violence said that trans and gender diverse sexual assault victim-survivors also faced barriers to reporting crimes and accessing appropriate services.⁸³ Research conducted by ACON illustrated high rates of suicidal ideation, self-harm and attempted suicide among trans and gender diverse victim-survivors of sexual violence. These are substantially higher rates than those reported by cisgender participants in the study.⁸⁴

Intersecting marginalisation

Multiple submissions discussed how trans and gender diverse people with intersecting marginalisations experience different rates and types of violence, harassment and intimidation. Our Watch’s submission highlighted:

intersecting forms of systemic discrimination and oppression such as ableism and racism can increase the severity and prevalence of this [anti-trans] violence. Aboriginal and Torres Strait Islander trans and gender diverse people, including Sistergirls and Brotherboys, experience both racism and transphobia due to the context of both the racialised and patriarchal systems of heteronormativity and cisnormativity, and relationships that colonisation introduced and has sustained over time.⁸⁵

Disability and age are 2 other areas of intersecting marginalisation which compound many trans and gender diverse people’s experiences of violence. ARCSHS’ national project *Writing Themselves In 4* was the largest ever survey of LGBTIQ+ young people aged 14–21, with 6,418 valid responses. One of the report’s findings was that ‘Young TGD people with disabilities experience greater levels of verbal (52.7%), physical (15%) and sexual (31.7%) violence because of their sexuality or gender identity than those without disability or a long-term health condition’.⁸⁶

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission) published a research report on LGBTIQ+ people with disability. The report found that



Transgender women from CaLD [culturally and linguistically diverse] backgrounds are sexually harassed, misgendered, 'outed', and asked inappropriate and intrusive gender-identity questions in public (Ussher et al, 2020). This included being routinely objectified, commented on, or stared/leered at (as a sexual object and 'hostile' staring) in public. CaLD transgender women also experienced racist, sexist, whorephobic and transphobic harassment.⁹¹

Groups opposing trans and gender diverse rights

In the last decade, trans and gender diverse people have become more visible in media and public life. This visibility has led some people to question trans and gender diverse people's access to particular spaces or services.

Submissions and both Australian and international research describe organised and sometimes coordinated opposition to trans and gender diverse rights.⁹² This is distinct from questions from individuals which are made in good faith.

These different sources all describe groups and individuals who are focused on discrediting trans and gender diverse people and, as one trans person put it, 'promoting hate and vilification'.⁹³ Many groups critical of trans and gender diverse rights describe themselves as pro-family or pro-women, rather than explicitly anti-trans and gender diverse.⁹⁴ Advocates who challenge the legitimacy of trans and gender diverse rights have real and direct impacts on the human rights of trans and gender diverse people in Australia.⁹⁵

Queer and Trans Workers Against Violence – a group of LGBTIQ+ identified community workers aiming to improve outcomes of LGBTIQ+ survivors of violence in Queensland – noted a trio of groups opposing trans and gender diverse rights. Their submission stated: 'the positions of gender critical feminist groups on the lives of trans, gender diverse and non-binary people effectively align with those of anti-trans religious conservatism and right-wing fringe extremism'.⁹⁶

rates of verbal, physical and sexual violence were even higher for trans and gender diverse people with disability from culturally and linguistically diverse, migrant, refugee and asylum seeking backgrounds.⁸⁷

ANROWS' submission noted that trans and gender diverse sex workers experience high levels of discrimination and vilification – especially trans women of colour.⁸⁸ Research also suggests that stigma, laws around sex work and discrimination are reinforcing barriers to sex workers seeking support when they experience violence.⁸⁹

Other submissions highlighted how trans and gender diverse people of faith, as well as 'queer affirming faith communities', are often the targets of harassment and abuse.⁹⁰

Trans and gender diverse people who are also Aboriginal and Torres Strait Islander people or from culturally and racially marginalised communities also face intersecting discrimination. One submission from a group of academics which focused on sexual violence noted:

Academic literature also describes 3 groups which have broadly driven the critique of trans and gender diverse rights:

- traditional and religious conservatives
- right-wing populists and the far right
- gender critical feminists.

Traditional and religious conservatives

These groups oppose trans and gender diverse rights as part of what scholars call an ‘anti-gender movement’.⁹⁷ Anti-gender describes ‘the opposition to feminist and gender equality efforts – depicted as ... “gender ideology” – in a range of topics including LGBT rights, reproductive rights, sexual education, gender equality policies and gender studies, among others’.⁹⁸ The anti-gender movement emerged from conservative Christian groups and the Catholic Church in the early 1990s.⁹⁹ It now includes many conservative politicians, media and organisations.

Anti-Gender

Academic literature uses the terms anti-gender and anti-genderism to describe a broad spectrum of global political movements and campaigns united around their opposition to the concept of ‘gender’ and ‘gender ideology’. These groups often frame LGBTIQA+ rights as being threats to ‘family values’ or ‘traditional values’.¹⁰⁰

Gender ideology

‘Gender ideology’ is a disparaging term that anti-gender groups sometimes use to attack trans and gender diverse rights. The expression ‘gender ideology’ frames efforts to recognise gender diversity, gender equality and the rights of women and LGBTIQA+ people as an ideological agenda.¹⁰¹ References to ‘gender ideology’ or ‘gender identity ideology’ frame these causes as an organised conspiracy to undermine tradition and/or stereotypical, ‘fixed’ gender roles.¹⁰²

Scholars believe ‘gender ideology’ was first used in this way in the early 1990s

as a response to international policy concerning reproductive rights, gender equality and sexuality.¹⁰³ Scholars note that in these contexts the expressions ‘gender’ and ‘gender ideology’ do not have fixed meanings. Instead, “gender” functions as a container or projection screen for a range of issues and concerns ... that binds together disparate agendas and groups.”¹⁰⁴

Right-wing populists and the far right

Anti-gender ideas are also popular in right-wing populism and far right groups. Researchers have charted a dramatic increase in explicit transphobia in Australian populist and far right discourse between 2015 and 2022. This became especially pronounced after the 2017 marriage equality survey.¹⁰⁵

Researchers also note that far right actors have capitalised on opposition to trans and gender diverse rights to expand their reach and influence, similar to how they tapped into anti-vaccination sentiments during the COVID-19 pandemic.¹⁰⁶

Gender critical feminists

Gender critical feminists ‘oppose “identity” or gender-based rights. They instead argue that women are oppressed as a biological class and deserve rights based on binary and essentialist understandings of male/female sex categories’.¹⁰⁷ Essentialist means a belief in inherent characteristics that all members of a group possess by virtue of their biology. Some people use the term ‘TERF’ (trans-exclusionary radical feminism) to describe these beliefs, though its advocates tend to identify as gender critical feminists. Some actors who speak to these beliefs do not identify as part of the feminist movement.

All these actors oppose the separation of sex recorded at birth from gender identity and/or the expansion of gender categories beyond man and woman. These groups use different tactics and target different actors.¹⁰⁸ Yet, they share the goal to limit or revoke trans and gender diverse rights, ban gender-affirming healthcare and restrict trans and gender diverse participation in public life.¹⁰⁹

Drivers of increasing violence, harassment and intimidation

Our Watch is an organisation which focuses on primary prevention of violence against women and their children in Australia. Their submission noted:

Gender inequality is a key driver of violence against trans and gender diverse people. This includes rigid attitudes, behaviours, and views about gender and a belief that people must conform to heterosexuality and their sex assigned at birth (heteronormativity and cisnormativity).¹¹⁰

Organisational drivers

International research shows how groups opposed to trans and gender diverse rights sometimes spread disinformation about trans and gender diverse people.¹¹¹ One LGBTIQ+ advocacy group described these groups' end goal as being 'the total erosion of all rights that apply specifically to trans, non-binary and gender diverse people'.¹¹²

ACON – NSW's largest HIV and LGBTIQ+ health organisation – provided examples of its staff experiencing harassment from various individuals, organisations and media:

Our own staff members have been subject to doxing by anti-trans advocates, on social media, and by tabloid news outlets. These violations of our staff's human rights, including the right to privacy and dignity, have been deeply distressing for our staff and our organisation.¹¹³

The Institute for Strategic Dialogue describes itself as an independent, non-profit organisation dedicated to safeguarding human rights and reversing the rising tide of polarisation, extremism and disinformation worldwide. Their submission claimed that culture wars imported from the United States and, to a lesser extent, the United Kingdom, were influencing groups and individuals opposed to trans and gender diverse rights.¹¹⁴ Indeed, research shows that groups critiquing trans and gender diverse rights 'collaborate and engage in coalitional work across the globe'.¹¹⁵

The submission from Women's Health in the North – a women's health promotion and advocacy organisation for the northern region of Melbourne – argued that anti-gender discourses are radicalising opponents of trans and gender diverse rights. This has led to increasing transphobia and violence, including within families.¹¹⁶

Women's Health in the North's submission also noted that there is growing awareness about the overlapping drivers of gender-based violence which affect cisgender women *and* trans and gender diverse people. Nonetheless, they observed:

[T]here is limited practice guidance on how to address both these forms of violence in shared prevention initiatives, or at least make prevention of violence against women initiatives inclusive of trans women and gender diverse people.¹¹⁷

Media and public discourse

The TRANSform longitudinal study of 807 participants provides insights into the impacts of public discourse on trans and gender diverse people in Australia. Trans Health Research, a research team within the Department of Medicine at the University of Melbourne, conducted this study. Preliminary data shows that survey respondents reported exposure to multiple forms of rhetoric opposing trans and gender diverse rights:

- 72.1% to anti-trans rhetoric online multiple times each week
- 68.9% to international anti-trans legislation and violence (e.g. news reports about violent hate crimes against trans people)
- 58.2% to anti-trans rhetoric in the news media
- 37.6% to anti-trans rhetoric by Australian politicians and other high-profile individuals.

Preliminary analysis suggested that as trans and gender diverse people were increasingly exposed to rhetoric, policies and violence, this was driving higher risks of anxiety and depression, suicide planning, suicidal ideation and self-harm ideation or behaviours.¹¹⁸ International research reinforces that a rise in violence against LGBTIQ+ people occurs when there is increased negative public discourse.¹¹⁹

Many submissions drew connections between the media and the perpetuation of negative public discourse. These submissions expressed concern that the media is failing in its role to provide accurate, unbiased information. They suggested that the mainstream media engages in dehumanising discussions around the legitimacy of trans and gender diverse identities, embraces moral panic and fuels misleading and sensationalist narratives about trans and gender diverse people.¹²⁰ A submission from an individual summarised:

The majority of anti-trans [media] activity appears to be focussing on creating negative perceptions of TGD people, and in so doing, create an atmosphere of practical denial of rights whilst working on swaying popular opinion.¹²¹

Rainbow Rights Watch, an Australian not-for-profit organisation, has studied how the Australian press portrays trans and gender diverse people in Australia. Their submission identified a strong statistical correlation between ‘regressing’ reporting standards and increasing rates of prejudice, discrimination and hate crimes over an 18 month period.¹²²

Rainbow Rights Watch cited several articles published by mainstream media outlets that used derogatory and dehumanising expressions to describe trans and gender diverse people. Their submission also shared that they had identified numerous Australian press articles which groups opposed to trans and gender diverse rights used to ‘recruit and justify intimidation, violence, and harassment of transgender individuals’. They concluded that ‘our research suggests that Australian mainstream media actually plays a key role in sustaining, normalising, and perpetuating prejudicial attitudes about transgender people in Australia.’¹²³

One individual submission noted the significant role media plays in shaping perspectives because trans and gender diverse people are such a small population.¹²⁴ Most people do not have firsthand interactions with a trans or gender diverse person,⁵ and

therefore learn about gender diversity through media portrayals.¹²⁵

Another theme in some submissions was about language which dehumanises trans and gender diverse people.¹²⁶ These submissions argued that this language is contributing to the spread of attitudes which tolerate violence. The Inner City Legal Centre stated:

Anti-trans rhetoric is usually hate speech. It uses language that attacks TGD people for who they are. Anti-TGD activists perpetuate stigma, intolerance, and violence by fuelling baseless panic response across transphobic subcultures. They cause harm direct to individuals that fall outside of the gender binary and by extension to society.¹²⁷

Our Watch’s submission noted that:

Violence against trans and gender diverse people does not occur in a vacuum, but in the context of narrow social ideas about bodies, sex, and gender which privilege certain forms. When attitudes in society devalue or dehumanise trans and gender diverse people (and other LGBTIQ+ people) perpetrators may feel they can perpetrate violence against them without risk of punishment.¹²⁸

Conspiracy theories

Several submissions also linked transphobia to the spread of conspiracy theorists such as QAnon, the Save the Children movement (as distinct from the international children’s rights non-governmental organisation)¹²⁹ and anti-vaccination movements.¹³⁰ Research reinforces these observations.¹³¹ Far right and other groups regularly promote ideas linking trans and gender diverse people to child abuse and paedophilia.¹³² The Institute for Strategic Dialogue submission stated that in recent years, and especially the previous 18 months:

Our analysts have noted this rising trend in anti-trans hate across multiple geographic regions and across a range of the groups which we monitor, including far right and populist right political movements; white nationalist groups; conspiracy and anti-vax groups; some fringe left cohorts; Islamist

⁵ The IPSOS LGBT+ Pride 2025 survey found only 16% of Australian participants have a friend, colleague or relative who is transgender, and only 18% have a friend, colleague or relative who is non-binary, gender non-conforming or gender-fluid. See ‘[IPSOS LGBT+ Pride Report 2025](#)’, June 2025: 23–24.

groups; and state propaganda and covert influence campaigns from both Russia and China.¹³³

Drag, trans and gender diverse identities and violence

A few submissions described the active harassment campaign targeting drag events and performers across Australia.¹³⁴ Drag is not the same as being trans or gender diverse. Drag is a temporary performance of gender – often, but not always, different to the performer’s gender. Being trans or gender diverse refers to the person’s lasting, authentic gender identity.¹³⁵

Despite these differences, some opponents of trans and gender diverse rights have conflated drag with trans and gender diversity and threatened drag queens and events. A report by Tackling Hate Lab, a research collective focused on data analysis of violent ideologies and prejudice-motivated violence, noted that ‘Australian far-right groups played a key role in amplifying and coordinating anti-transgender and anti-drag narratives [during a period of increased online hate and offline mobilisation in March 2023]’.¹³⁶

The Institute for Strategic Dialogue explained:

The rhetoric and narratives targeting drag performers makes it very clear that trans people and drag performers are being conflated in the minds of those who subscribe to these narratives [that drag performers pose a physical, sexual or spiritual threat to children], meaning that threats against one group should be recognised as also being threats against the other. Drag performers may be the immediate victims, but in many ways trans people are the true target of that animosity.¹³⁷

The Australian Library and Information Association wrote:

Public libraries in Australia have been hosting drag story times, often as part of LGBTIQ+ programming, for many years without issue. However, over the last 18 months some events have been targeted with phone calls, emails, in-person complaints, social media posts and

physical protests calling for the events not to go ahead. Those targeting drag story times have made credible threats of violence and harassed library staff during physical protests. While some events have been able to proceed with local community support and counter-protests, other performances have had to be cancelled.¹³⁸

The Institute for Strategic Dialogue submission noted:

our research series found that anti-drag activists across the geographies appear to have consolidated around a common set of tactics. Most prominently, this includes protesting outside venues where drag events are being held or planned to be held. Other tactics include doxxing; threats of violence; coordinated harassment campaigns against venues, organisers and performers; and stickering and flyering or letterboxing campaigns.¹³⁹

These submissions suggested the need for greater police resourcing and support to ensure the safety of drag events.



Legal barriers to addressing violence

Even though anti-discrimination laws cover trans and gender diverse people, inequalities persist. Inconsistencies across jurisdictions, particularly regarding the scope and definition of ‘protected attributes’, leave

many trans and gender diverse Australians without adequate protections. Gaps in legislation and a lack of cohesion between anti-discrimination and anti-vilification frameworks generate confusion and barriers to justice or redress.

Anti-discrimination vs Anti-vilification

Anti-discrimination refers to protections against unfair treatment because of personal characteristics or attributes. Anti-vilification refers to protections against behaviour that encourages hatred against someone because of their personal characteristics or attributes. Vilification is often called hate speech or conduct. Some states and territories have both criminal and civil protections against vilification, some have only civil protections and some have neither.¹⁴⁰

Jurisdiction	Protected Attributes	Anti-discrimination	Anti-vilification
Commonwealth	‘Gender identity’	yes	no
ACT	‘Gender identity’ and ‘record of a person’s sex having been altered’	yes	Civil protection against public acts that ‘incite hatred toward, revulsion of, serious contempt for, or severe ridicule of a person or group of people’. ¹⁴¹ Criminal offence of serious vilification. ¹⁴²
NSW	‘being transgender or a transgender person’	partial	Civil protection against ‘transgender vilification’. ¹⁴³ Criminal offence of publicly threatening or inciting violence on basis of ‘gender identity’. ¹⁴⁴
NT	‘Gender identity’	yes	Civil protection against public acts that incite hatred, contempt or severe ridicule. ¹⁴⁵
Queensland	‘Gender Identity’	yes	Civil protection against ‘inciting hatred towards, serious contempt for, or severe ridicule of, a person or group of persons’ were added to the <i>Anti-Discrimination Act 1991</i> (Qld). ¹⁴⁶ However, the state government paused implementation on 14 March 2025. ¹⁴⁷ Criminal offence of serious vilification. ¹⁴⁸
SA	‘gender identity’	yes	no
Tasmania	‘gender identity’	yes	Civil protections against conduct which offends, humiliates, insults or ridicules another person, and inciting hatred. ¹⁴⁹

Jurisdiction	Protected Attributes	Anti-discrimination	Anti-vilification
Victoria	'Gender identity'	yes	Civil protections against vilification and incitement from conduct that is hateful or seriously contemptuous of, or reviling or severely ridiculing. This law comes into force on 30 June 2026.¹⁵⁰ Criminal offence for 'conduct that is likely to incite hatred against, serious contempt for, revulsion towards or severe ridicule of, another person or a group of persons'. There are also provisions criminalising 'threaten[ing] physical harm or property damage on ground of protected attribute'.¹⁵¹
WA	'gender history' of a 'gender reassigned person'	partial	no

Multiple submissions identified a clear need to remedy the inconsistencies in anti-discrimination and anti-vilification regimes.¹⁵² The Justice and Equity Centre – formerly the Public Interest Advocacy Centre – is an independent, non-profit social justice law and policy organisation. It works with people and communities who are marginalised and facing disadvantage. Its submission expanded on the disparities in legal protections for trans and gender diverse people:

Only some TGD people are covered by the civil vilification provisions in the *Anti-Discrimination Act 1977* (NSW), leaving non-binary and other gender diverse people unprotected, whereas all TGD people are included for the purposes of the 'threatening or inciting violence' criminal offence in section 93Z of the *Crimes Act 1900* (NSW). The largest gap, however, exists at Commonwealth level, with no prohibitions on vilification on the basis of gender identity (or sexual orientation or intersex status/sex characteristics) in the *Sex Discrimination Act 1984* (Cth).

The absence of such prohibitions has become more notable, and problematic, given the rise in transphobic hate speech from early 2023 onwards.¹⁵³

According to Vixen, Victoria's leading peer sex worker organisation:

These inconsistent approaches [to anti-discrimination and anti-vilification] generate confusion as to whether TGD people can access these provisions (e.g. in WA, discrimination is only prohibited against 'gender reassigned' people). Many jurisdictions do not have civil anti-vilification protections (SA, WA, Vic)⁶ and criminal anti-vilification protections are often limited by high thresholds and specific circumstances ... A more uniform approach is required to ensure that TGD people in all jurisdictions can access anti-discrimination and anti-vilification protections, and that the wider community understands that discrimination and vilification against TGD people is unlawful.¹⁵⁴

6 Since Vixen sent its submission, Victoria updated its laws to introduce civil and criminal anti-vilification protections.

CASE STUDY

Posie Parker rally

Inner City Legal Centre noted a high-profile example of hate speech at a rally in Melbourne in 2023:

In March [2023], British campaigner Kellie Jay Keen-Minshull (aka. Posie Parker) held an anti-trans rally in Melbourne. Speeches at this rally implied that Trans people were (inter alia) ‘child groomers’, ‘male sexual predators’ and ‘paedophiles’. Keen-Minshull referred to gender affirmation healthcare as ‘mutilation’. Speech of this nature is dangerous. It fuels discriminatory stereotypes and works against the development of our moral capacity to understand that gender is diverse and that it sits on a spectrum ... The absence of laws to protect Trans communities reinforces power in the dominant group.¹⁵⁵

Barriers to help-seeking

The history of police abuse and harassment of LGBTIQ+ people leaves many trans and gender diverse people distrustful of law enforcement (see section 2.4). A consequence of this distrust is that trans and gender diverse people are less likely to report offences against them.¹⁵⁶ As Anti-Discrimination NSW highlighted, current statistics about hate crimes and violence likely reflect only a small proportion of crimes committed against the trans and gender diverse community.¹⁵⁷

Many trans and gender diverse people are also hesitant to seek help from other support services. Evidence shows that many frontline services that support victim-survivors of violence and abuse have been built on models which assume that the victim-survivor is heterosexual and cisgender.¹⁵⁸ Evidence shows that trans and gender diverse people are less likely to seek support – even though they remain over-represented in areas ranging from online hate speech, through to family and domestic violence and sexual

assault. As ARCSHS summarised, the ‘institutional harms sustained by trans-victim survivors in engaging with these systems is a consistent theme in Australian research’.¹⁵⁹

Australian research also shows that many trans women are wary to seek support for sexual violence due to prior negative experiences with healthcare providers or justice agencies.¹⁶⁰ As ANROWS explained in their submission, when trans and gender diverse people seek help, they often:

reported judgement, victim-blaming, a lack of acknowledgement that sexual violence had occurred and a lack of formal response in collecting DNA or other samples (Ussher et al., 2020). Intrusive comments, disbelief and attack are common throughout legal system processes (Salter et al., 2020). For trans women, their gender identity is also ‘open to public scrutiny’ throughout these processes (Ussher et al., 2020, p. 111).¹⁶¹

The Victorian Royal Commission into Family Violence recommended developing information and referral pathways for LGBTIQ+ communities and greater training for service providers. Family and domestic violence support and prevention services need the capabilities to safely support LGBTIQ+ victim-survivors, while LGBTIQ+ support services need training in family and domestic violence prevention and support.¹⁶²



2.2 Online safety

- The online world can provide information, support and connection for trans and gender diverse people.
- Trans and gender diverse people also experience significant direct and indirect abuse online. Online abuse threatens trans and gender diverse people's safety in the real world.
- Algorithms and some social media community guidelines favour the online proliferation of discourses opposed to trans and gender diverse rights and safety.
- An approach to online safety grounded in human rights must carefully balance the protection of users from harm with the preservation of fundamental rights, such as freedom of expression.

Relevant human rights laws and principles

- **Yogyakarta Principle 36 – The Right to the Enjoyment of Human Rights in Relation to Information and Communication Technologies:** describes human rights in relation to information and communication technologies.
 - Everyone is entitled to the same protection of rights online as they are offline. Everyone has the right to access and use information and communication technologies, including the internet, without violence, discrimination or other harm based on sexual orientation, gender identity, gender expression or sex characteristics. Secure digital communications, including the use of encryption, anonymity and pseudonymity tools are essential for the full realisation of human rights, in particular the rights to life, bodily and mental integrity, health, privacy, due process, freedom of opinion and expression, peaceful assembly and association.¹⁶³



Australian eSafety laws

Australia's online safety regime is complex and intersects across several key pieces of legislation on both criminal and civil matters. For example, the *Criminal Code Act 1995* (Cth) imposes criminal penalties for certain kinds of unlawful conduct online (threats to kill, cause harm, etc). The *Online Safety Act 2021* (Cth) empowers the eSafety Commissioner to investigate and remove certain types of harmful content.

Online safety laws are increasing in complexity as more types of information and conduct are regulated – from what information people are allowed to see via simple internet searches, to whether misinformation and disinformation should be removed from social media feeds.

The last few years have been characterised by an increased appetite by Government to address online harms. There is a real risk that the legal avenues to protect safety online have become obfuscated by overlapping and complicated laws. Online safety laws should continue to be developed, and they must ensure accessibility for those who need them – including trans and gender diverse people.

Rising online bullying and harassment

For trans and gender diverse people, the online world has been a means to seek and receive emotional support. However, current evidence points to rising online discrimination, harassment and violence against trans and gender diverse people.¹⁶⁴

Public reports do not indicate cyber abuse or cyberbullying reporting rates specifically targeting trans and gender diverse people. Numerous submissions, however, outlined how trans and gender diverse people experience persistent online abuse. These submissions came from individuals with lived and living experience, community organisations and research institutions. Submissions even gave examples of receiving death threats and rape threats.¹⁶⁵ This abuse caused significant distress, insomnia and other adverse effects on individuals' mental health. They also suggested that Australia's eSafety regime is not adequately protecting trans and gender diverse people from abuse.¹⁶⁶

One trans person's submission noted

that those responsible for attacking trans and gender diverse people online span: 'politicians, religious groups, single-interest "women's" groups, individuals with a high profile on social media, politically backed social media organisations, far right neo-nazi groups, and journalists in print and tv media'.¹⁶⁷ Equality Tasmania's submission noted that when the state parliament was proposing to ban conversion practices, they observed 'an increase in online hate against TGD Tasmanians and their allies (including Equality Tasmania)'.¹⁶⁸

Many submissions discussed the links between online abuse and media discourses about trans and gender diverse people.¹⁶⁹ Rainbow Rights Watch stated in their submission:

Since we expanded our media monitoring to include Australian publisher[s'] social media platforms last year, we have detected more than 4,500 comments published by mainstream media outlets on their social media pages, which likely breach vilification laws in various jurisdictions of Australia. Those materials include many thousands of references to transgender individuals as 'perverts', 'disgusting', 'filthy'[,] 'fags', 'pedos', 'groomers', 'faggots', 'it', 'thing', 'delusional', 'evil', 'confused', 'creature', 'creepy', 'disordered', 'misogynists', and other similar pejoratives.¹⁷⁰

Research also shows how opponents of trans and gender diverse rights are mainstreaming transphobic discourse online through 'language of concern and care, often framed as users asking legitimate questions about safety'.¹⁷¹

Multiple submissions cited the 'Fuelling Hate' report's finding that about half of trans and gender diverse respondents experienced online anti-trans hate, and around 95% had seen online anti-trans hate in the last year.¹⁷² Research from the Office of the eSafety Commissioner (eSafety) found that among trans and gender diverse children:

- 81% had experienced cyberbullying
- 88% had seen online hate at some point
- 75% had seen online hate in the last 12 months
- 38% had experienced non-consensual tracking, monitoring or harassment, and 20% experienced it in the past 12 months.¹⁷³

Online abuse impacts on a person's right to non-discrimination, protection from violence and freedom to participate in online spaces.¹⁷⁴ Women's Health in the North summarised the experiences of online abuse well:

TGD people experience online hate in many ways, including deliberate misgendering, hate speech, doxxing, bullying, stalking, threats of physical and sexual violence, death threats, incitement to commit suicide and incitement to genocide. Routine transphobia in online spaces may be attributable to factors such as poor content moderation, mis and dis-information, and anti-trans forums organised across social media platforms.¹⁷⁵

The nature of online discrimination and abuse

Research from eSafety showed that LGBTIQ+ adults in Australia experience online hate speech at more than double the national average.¹⁷⁶ The most cited negative experience was unwanted messages.¹⁷⁷ Another study by eSafety reinforced findings about extensive online abuse and noted the challenge of lateral violence. This refers to intra-community abuse, or LGBTIQ+ people abusing each other online.¹⁷⁸

CASE STUDY

Inner City Legal Centre's submission gave this illustrative example of online abuse:

Sam** is an 18-year-old trans man who has recently left home and is living in a shelter due to transphobia in his family. A former friend of his has been deadnaming him on social media and harassing him. He has tried to engage appropriately with the other person, but the other person refuses to stop. Police advised they couldn't do anything about it and refused to take out an AVO [apprehended violence order] for his protection despite the clear transphobic harassment and intimidation. **not his real name.¹⁷⁹

A few submissions cited dating applications as a key site of online abuse.¹⁸⁰ Wider research reinforces this point. Abuse on dating applications is compounded for those with intersecting identities – for instance people from culturally and racially marginalised backgrounds or Aboriginal and Torres Strait Islander people.¹⁸¹

Scarlet Alliance – the national peak body representing sex workers, sex worker organisations and projects in Australia – reported that both cisgender and trans and gender diverse sex workers experience digital discrimination. This includes:

- shadow banning (having content partially or fully blocked without being notified)
- deplatforming (being removed from social media sites)
- being denied webhosting
- losing access to payment processors and merchant facilities.¹⁸²

Online harassment may also lead to physical violence. Several submissions reported a rise in doxxing.¹⁸³ This refers to the 'practice of publishing personal identifying information about someone on the internet, usually with malicious intent'.¹⁸⁴ Vixen described trans and gender diverse people as being 'stalked, harassed, and in some cases had members of the NSN [Australian National Socialist Network] show up in their workplaces'.¹⁸⁵ Similarly, Family Access Network, a homelessness service based in Victoria, reported having to limit advertising and even cancel LGBTIQ+ events. They feared opponents of trans and gender diverse rights would show up to harass and intimidate those in attendance.¹⁸⁶ The Victorian Pride Lobby's submission noted:

In the lead up to International Day Against Homophobia, Biphobia, Intersexism and Transphobia (IDAHOBIT), over a dozen [Victorian] councils cancelled LGBTIQ+ youth events due to organised protest threats from far-right groups. Less than a month later, the City of Wangaratta cancelled their 'Rainbow Ball', after threats from far-right groups were spotted online.¹⁸⁷

The threat of doxxing has presented trans and gender diverse people with new hurdles to protect themselves, both online and in person. Trans and gender diverse support organisations gave examples of people who have registered as silent voters in elections, constantly changed and hid social media profiles and avoided public activities for safety reasons.¹⁸⁸ Recent amendments to the *Criminal Code Act 1995* (Cth) made it illegal to dox a person on the basis of their gender identity, with a possible prison sentence of up to 7 years.¹⁸⁹ The effectiveness of this law is yet to be tested.



Social media ban

Social media platforms must now take reasonable steps to prevent children under age 16 from creating and retaining accounts.¹⁹⁰ The social media ban rightly aims to protect children from online harms by removing them from the platforms where they are most often exposed to inappropriate content.

However, many critics argue that the ban poses a disproportionate restriction on freedom of expression and the rights of children. In a joint statement, the Human Rights Commissioner and then Children's Commissioner raised concerns about the ban, saying:

While we all recognise the significant risks that social media can pose for children, an outright ban is a blunt instrument that fails to recognise that social media can also have positive benefits. For children in marginalised, remote, or vulnerable situations, social media offers a lifeline. It connects children with disability to peers, resources, and communities they may not otherwise access. It helps LGBTQIA+ youth find acceptance and solidarity. It can improve access to healthcare, particularly for children seeking mental health support. These digital spaces can educate, inform,

and remind kids who feel isolated – whether physically or emotionally – that they are not alone. Children and young people have rights to access information and to freely express themselves as they develop and form their identities. A social media ban directly threatens these rights.¹⁹¹

The Australian Government announced the social media ban after submissions to this report closed. Therefore, no submissions addressed the ban.

The eSafety research identified that trans and gender diverse young people use a variety of social media and communication platforms and many play video games online. Trans and gender diverse children and young people also tend to differ in their preferred platforms when compared to cisgender children and young people.¹⁹²

The Women's Rights Network Australia (WRNA), an advocacy group, expressed concerns about the influence of social media on children and young people. WRNA argued that social media is influencing children and young people to experience gender dysphoria.¹⁹³ This is the notion of 'social contagion' discussed in section 3.3. As that

section explains in more detail, researchers have refuted claims of ‘social contagion’. Furthermore, evidence indicates that online exposure to peer-to-peer health advice has a positive, rather than negative, impact on trans and gender diverse young people’s wellbeing.¹⁹⁴

Research consistently shows that trans and gender diverse children and young people witness or experience online hate and cyberbullying.¹⁹⁵ Yet, research also shows that many oppose censorship. One study found:

whilst young people expressed a desire not to see negative content or problematic ideas, many were wary about censoring people and content. Concerns revolved around silencing others’ voices, or as one participant explained, there was the danger that you yourself could be censored one day.¹⁹⁶

Many young people advocate instead for an ‘educative’ approach. They want to see perpetrators of hate speech and bystanders taught about sexual and gender diversity.¹⁹⁷

Research shows the benefits of social media and online information for young trans and gender diverse people. Social media represents an opportunity for LGBTIQ+ young people to ‘curate’ an identity online. They can express their gender identity or other aspects of themselves in different ways. They can also set their own degrees of anonymity or use pseudonyms.¹⁹⁸ Those young people who live in non-affirming social contexts can especially benefit from online information, peer connections and informal supports.¹⁹⁹ Researchers therefore argue that social media bans would have negative impacts on trans and gender diverse young people.²⁰⁰

The social media ban means that under-16s will no longer be able to access affirming information on the platforms they used the most. However, they will continue to be able to find these kinds of information via more traditional means such as internet searches, physical hotlines or other support services. Details about the ban are evolving and require continual and close assessment to ensure that negative and unintended impacts do not arise.

Misinformation and disinformation

In recent years there has been greater public discussion about the spread of misinformation and disinformation online. These are both forms of false information; they are related, but different.

Determining what is ‘misinformation’ and ‘disinformation’ is difficult. What one person identifies as disinformation, another might consider as a legitimate opinion. This report adopts the definitions provided by the Australian Electoral Commission’s Electoral Integrity Assurance Taskforce:

Misinformation is false information that is spread due to ignorance, or by error or mistake, without the intent to deceive.

Disinformation is knowingly false information designed to deliberately mislead and influence public opinion or obscure the truth for malicious or deceptive purposes.²⁰¹

One recent research study concluded:

contemporary transphobic disinformation is strengthened and legitimated by legacies of structural ignorance about trans people. In the face of malicious, intentionally spread disinformation about trans people and GAC [gender-affirming care], structural ignorance creates confusion in the public imagination about what it means to be trans.²⁰²

A key challenge with online misinformation and disinformation is that they *appear* credible. For example, opponents of trans and gender diverse rights may couch their arguments in language that appears scientific.²⁰³

Several submissions raised the difficulty of preventing and responding to misinformation and disinformation.²⁰⁴ For instance, the Kids Research Institute Australia (formerly the Telethon Kids Institute) stated:

We are concerned about reports of groups on social media platforms which, under the guise of supporting parents, advocate a non-affirming approach to gender diversity; encouraging parents to not affirm their child’s gender identity, and

to deny or delay any social or medical gender-affirmation. These groups are reported to stoke parents' fears and perpetuate concerning and baseless antitransgender moral panics and conspiracy theories.²⁰⁵

Social media platforms do not offer adequate support and pathways to identify and respond to misinformation and disinformation. Artificial intelligence (AI) and algorithms used by social media platforms are magnifying misinformation and disinformation. Research consistently shows that algorithms favour far right and other discourses opposed to trans and gender diverse rights.²⁰⁶ These discourses can go beyond reasonable and legitimately held opinions.

Submissions which raised concerns about AI agreed that a lack of regulation of algorithms causes harm to trans and gender diverse people and contributes to the spread of misinformation online.²⁰⁷ Women's Health in the North argued that the reach 'provided by online platforms enable individuals and groups opposed to feminism and gender equality to mobilise in mass numbers, network and organise across jurisdictions, and promote their views quickly and widely'.²⁰⁸

In addition to algorithms, the increasing use of generative AI tools, such as large language models, may also play a role in the spread of misinformation and disinformation. CoPQTI – the UNSW Community of Practice for Inclusive Research with Queer and Trans People, and People with variations of sex characteristics (Intersex People) – brings together academic staff, professional staff and research students. Their submission explained:

Internet safety is exacerbated by emerging technologies like generative AI. Large language models may manifest bias towards transgender and gender diverse people – either where mere usage of transgender and gender diverse terms is considered offensive or in the generation of content that falsely represents their communities.²⁰⁹

Inadequacy of social media policies

In the last 2 years, social media platforms have gradually been weakening anti-discrimination policies. In 2025 both X (formerly Twitter) and Meta removed protections for trans and gender diverse users.²¹⁰ For example, in January 2025 Meta removed clauses prohibiting 'the usage of slurs that are used to attack people on the basis of their protected characteristics' from its Hateful Content Community Standards Policy. Meta also introduced language to allow for 'allegations of mental illness or abnormality when based on gender or sexual orientation'.²¹¹ The President and CEO of GLAAD – a US based non-profit LGBTIQ+ advocacy organisation – responded to Meta's rollback:

Without these necessary hate speech and other policies, Meta is giving the green light for people to target LGBTQ people, women, immigrants, and other marginalized groups with violence, vitriol, and dehumanizing narratives. With these changes, Meta is continuing to normalize anti-LGBTQ hatred for profit.²¹²

Social media platforms often have tools for users to report offensive, hateful or illegal material. However, some users are deploying reporting tools against any trans and gender diverse content. This is known as 'user-generated warfare'.²¹³ Research has found that 'sometimes queer people are harassed and there is mass reporting of their content, as a result of prejudice and discrimination, which might get them banned'.²¹⁴ In other words, rather than social media platforms banning the harassers, often they ban the victims.

Social media platform policies also impact on the online experiences of trans and gender diverse people. For example, research with young LGBTIQ+ Australians found 'user accounts had been targeted and videos were taken down, even though no community guidelines had seemingly been broken'.²¹⁵

The issues around misinformation, disinformation, AI, algorithms and hateful content all point to larger challenges around online safety. Although the content is online, the effects are widespread for trans and gender diverse people.

2.3 Forcibly displaced people

- Internationally, trans and gender diverse people are facing increasing persecution and other serious harms. This is driving more forcibly displaced people to seek asylum or migrate, including to Australia.
- In Australia, trans and gender diverse forcibly displaced people experience insecure visa status, an immigration system ill-equipped to process and handle their asylum claims and inadequate settlement services.
- There are inadequate guidelines and procedures to ensure the safety and gender-appropriate facilities for trans and gender diverse people in immigration detention.

Relevant human rights laws and principles

- **Article 1A(2) of the 1951 Refugee Convention:** defines a refugee as a person who 'owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country'.²¹⁶
- **United Nations High Commissioner for Refugees (UNHCR) Guidelines on International Protection No. 9:** outlines claims to refugee status based on sexual orientation and/or gender identity. The guidelines relate to Article 1A(2) of the 1951 Refugee Convention and its 1967 Protocol relating to the Status of Refugees.²¹⁷
- **Yogyakarta Principle 23 – right to seek asylum:** states that everyone has the right to seek and enjoy asylum from persecution in other countries, including persecution based on sexual orientation or gender identity. A State may not remove, expel or extradite a person to any State where that person may – because of their sexual orientation or gender identity – face a well-founded fear of torture, persecution, or any other form of cruel, inhuman or degrading treatment or punishment.²¹⁸
- **Yogyakarta Principle 31 – right to legal recognition:** states that everyone has the right to legal recognition without reference to, or requiring assignment or disclosure of, sex, gender, sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to obtain identity documents, including passports and birth certificates, regardless of sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to change gender information in documents which include gender information.²¹⁹

Displacement drivers

Several submissions focused on the challenges facing trans and gender diverse people from asylum seeker and refugee backgrounds – collectively known as forcibly displaced people.²²⁰ According to the UNHCR, the number of LGBTIQ+ refugees and asylum seekers has risen in recent decades.²²¹ The UNHCR notes that LGBTIQ+ people:

- may flee their home country as a direct result of their sexual orientation, gender identity, gender expression or sex characteristics
- are at heightened risk of exclusion, exploitation, violence and abuse – even in countries where they seek asylum
- may struggle to find safe accommodation, appropriate healthcare, education, work and other essential services.²²²

The UNHCR emergency handbook outlines LGBTIQ+ issues and UNHCR best practice for responding to displaced trans and gender diverse people. It explains:

Transgender persons are often severely marginalized and subject to violence. They are often subject to sexual abuse by state as well as non-state actors. Frequently excluded from education and access to housing and employment, they may resort to the sale and exchange of sex. They often lack access to medical services that are much needed.²²³

Trans and gender diverse people also experience greater limitations on their international mobility because many countries criminalise their gender identity.²²⁴ This can create significant barriers to obtaining official government documents such as passports and, therefore, obtaining a visa to travel elsewhere.

A systematic review of studies into LGBTIQ+ asylum seekers' mental health found that they 'experience multiple traumatic events across their lifespan, ranging from family rejection and harassment to conversion practices, persecution and violence'.²²⁵ Housing, employment, social integration and the asylum determination process are all areas where, globally, LGBTIQ+ refugees and asylum seekers face intersecting challenges.²²⁶

Two submissions noted that because of safety concerns, forcibly displaced trans and gender diverse people are often forced to conceal their gender or 'go back into the closet'.²²⁷ This may happen in their host country, while in transit or while accessing services.

Challenges with the Australian immigration system

Immigration systems are designed with the assumption that migrants are cisgender, heterosexual and fit into a binary of men or women. LGBTIQ+ forcibly displaced people do not easily fit into these systems. Therefore, they do not achieve equitable settlement outcomes compared to their non-LGBTIQ+ counterparts.²²⁸

International research consistently highlights LGBTIQ+ people's vulnerability within asylum systems. LGBTIQ+ applicants for humanitarian protection are expected to 'prove' their sexual orientation or gender identity, even though they may have hidden this in their country of origin for safety reasons. Indeed, LGBTIQ+ humanitarian applicants often cannot provide 'evidence' that satisfies immigration officials.²²⁹



CASE STUDY

The Refugee Advice & Casework Service (RACS) submission provided this example:

Trudi* is a transgender woman from a south-east Asian country who fled to Australia to pursue safe access to gender affirming health care and protection. RACS assisted Trudi to lodge a Protection Visa application with a detailed statement of her protection claims. Without offering an interview or providing an opportunity to respond to any concerns about the application in writing, the Department [of Home Affairs] refused to grant Trudi a protection visa. The basis for this refusal was that Trudi provided no evidence of past harm on the basis of her transgender identity in her country of origin. However, this assessment failed to consider the fact that when Trudi was in her country of origin, she was forced to present as a cisgender male to avoid harm. Without an interview and without this concern being raised for comment, Trudi was unable to articulate in her own words how her lack of past harm does not negate her risk of future harm given she has now been able to socially and medically transition in Australia.²³⁰

One Australian study explored sexuality-based immigration cases in the Administrative Appeals Tribunal. The author found that, historically, immigration officials often disbelieved applicants' sexuality. The practice of 'disbelieving' likely extended to asylum claims around gender identity. The research found that since the publication of guidelines around assessing 'sexual and gender minorities' asylum claims in 2016, there have been marked improvements in case outcomes.²³¹

Despite these improvements, submissions highlighted ongoing challenges confronting trans and gender diverse people who apply for asylum in Australia. For instance, they

identified the pathologisation of trans identities and applicants having to navigate invasive questioning.²³² According to RACS:

[The] refugee status determination process is particularly sensitive and can be traumatic for TGD people who face barriers to justice due to a lack of training for decision-makers, intrusive questioning at interview, and difficulties using interpreters.²³³

Equality Australia provided evidence of other challenges confronting trans and gender diverse asylum seekers:

Our 2019 review of 528 refugee decisions between June 2007 to 2018 found 13 tribunal decisions considering gender identity protections claims. While 62% of claimants were successful in their applications, we found a woeful lack of understanding of TGD diversity among tribunal members, including evidence of misgendering and a lack of understanding of trans human rights issues which led to highly questionable legal reasoning.²³⁴

The Australian Department of Home Affairs guidelines on assessing sexuality or gender identity-related asylum claims are only publicly available because of a freedom of information request. They are accessible online via the Department's freedom of information disclosure log (along with all other freedom of information disclosures), rather than on the main public-facing sections of the Department's website.²³⁵

Even though officials have improved their assessment processes, there is a heavy burden placed on trans and gender diverse asylum seekers. As researchers observe from multiple international studies:

Due to fear, internalized shame, or cultural and linguistic differences, LGBTQI+ asylum seekers might be unable or unwilling to speak up or describe their gender or sexuality with the same western terminology used by the immigration system of host countries (Borges, 2019). Asylum seekers are more invisible due to the binary discourse of gender inherent in legal systems (Van der Pijl et al., 2018).²³⁶

Hardships facing forcibly displaced people

International research on LGBTIQ+ forcibly displaced people identified common experiences, including:

- previous traumatic experiences
- insecure visa status and delays in processing protection claims
- financial insecurity
- insecure housing
- minority stress as LGBTIQ+ people
- minority stress being from culturally and racially marginalised backgrounds
- ongoing experiences of discrimination affecting their mental health.²³⁷

Minority stress

Minority stress is a way to understand the many co-occurring mental health impacts that marginalised and stigmatised minority groups experience. Minority stress describes the discrepancy that occurs between the health and wellbeing outcomes when compared to their less or non-stigmatised peers. Relationships Australia's submission explained:

Minority stress refers to the experience of heightened, ongoing psychological distress and social pressure experienced by members of stigmatised, minority populations. Such groups face additional life stressors compared to the general population, related to experiences of prejudice, discrimination and harassment, including violence and abuse.²³⁸

These findings resonate among forcibly displaced trans and gender diverse people living in Australia. In 2023, the Forcibly Displaced People Network, Australia's only national LGBTIQ+ refugee-led organisation, published "'Inhabiting Two Worlds at Once": Report into LGBTIQ+ Settlement Outcomes'.²³⁹ The report drew on a survey completed online by 82 LGBTIQ+ forcibly

displaced people resident in Australia. One limitation of the survey was that it was only published in English. The Forcibly Displaced People Network disseminated the survey online and in person through community organisations, academics and at events. The report notes that respondents did not answer all questions.

Still, as the only specific study into LGBTIQ+ forcibly displaced people in Australia, 'Inhabiting Two Worlds at Once' provides important insights. Among the findings were:

- 27% of the respondents identified as trans and gender diverse
- 95% of trans and gender diverse respondents experienced sexual and gender-based violence prior to coming to Australia (compared to 75% of all LGBTIQ+ respondents)
- 75% of trans and gender diverse respondents experienced sexual and gender-based violence in Australia (compared to approximately 60% of all respondents)
- trans and gender diverse respondents self-reported their mental health as 48 out of 100 (compared to 56 out of 100 of all respondents).²⁴⁰

The report also found that trans and gender diverse refugees and asylum seekers in Australia disproportionately experience homelessness. They find it hard to get stable work because of short-term visas and because regulatory bodies often will not recognise their overseas qualifications or past work experience. The report also found that Australian settlement support services were inadequate and failed to meet the needs of diverse communities.²⁴¹

Settlement Services

Neither mainstream settlement services nor trans and gender diverse/LGBTIQ+ support services are meeting the needs of trans and gender diverse forcibly displaced people. International research suggests that immigration, asylum, support and health systems need better training for staff about LGBTIQ+ clients' needs and experiences. They need to be affirming, culturally sensitive, intersectionally aware and conscious



of avoiding stereotypes and imposing expectations on LGBTIQ+ clients.²⁴²

Different visa statuses create significant barriers for LGBTIQ+ forcibly displaced people. For instance, many cannot access essential services such as Centrelink, the National Disability Insurance Scheme (NDIS) and Medicare. There is a critical shortage of trained interpreters who are competent in LGBTIQ+ inclusive communication. Additionally, there is a lack of relevant and translated settlement materials that reflect the experiences and needs of LGBTIQ+ individuals.²⁴³

A couple of submissions also emphasised the absence of competencies across settlement support services. They noted that support services lack inclusion in their design and do not consider intersecting marginalisations.²⁴⁴

For example, the National Ethnic Disability Alliance cited findings from the Disability Royal Commission. The Disability Royal Commission found that governments inadequately protected LGBTIQ+ young people with disability from culturally and linguistically diverse, migrant, multicultural and refugee or asylum seeker backgrounds. Furthermore, service providers lacked appropriate knowledge to meet those clients' needs.²⁴⁵

Immigration detention

International research shows that in immigration detention, LGBTIQ+ refugees and asylum seekers often experience 'discrimination from staff members or hostile attitudes and bullying from fellow asylum seekers (Aygün, 2019; Zappulla, 2018), especially when their gender expression does

not conform to social and cultural norms of gender binary'.²⁴⁶

Australia's immigration detention regime, and the serious human rights concerns it raises, may exacerbate risks for trans and gender diverse people in detention.²⁴⁷ Australia has a long-standing policy of mandatory detention for all people arriving or remaining in Australia without a valid visa, regardless of risk.²⁴⁸ This includes children, refugees and asylum seekers. Submissions highlighted Australia's poor track record in upholding the rights of refugees and asylum seekers.²⁴⁹ As a result, it is difficult to disentangle trans and gender diverse experiences from the broader human rights violations suffered by migrants in Australia while in immigration detention.

The National Ethnic Disability Alliance (NEDA) submission emphasised the negative experiences that trans and gender diverse individuals with disability suffer in immigration detention. They reported:

- discrimination
- lack of safeguarding regulation
- chronic misgendering, which contributes to poor mental health outcomes and significant trauma
- identity-based stigma, discrimination and violence at intersections of gender diversity and disability
- poor access to healthcare, which leads to psychological, social and physical injury.²⁵⁰

In December 2024, the Commission published [*'Not Just An Afterthought': The Experience of Women in Immigration Detention*](#). The report found that in an immigration detention system overwhelmingly focused on men, women – including LGBTIQ+ women – are too often an afterthought. The report identified serious concerns for their safety, health and welfare.

A section of the report on trans women in immigration detention drew on the principles and risk factors in state detention and prison systems. For instance, trans women placed in men's prisons face higher risks of assault, sexual assault and self-harm (see section 2.4).

Submissions expressed similar concerns about trans and gender diverse people's safety in immigration detention.²⁵¹ One human rights law firm observed: 'Trans

women in particular become the target of bullying, violence and sexual assault, as they are housed in men's prisons or immigration detention units'.²⁵²

The media has reported on the experiences of trans women in immigration detention. One ABC report said that until recently, several trans women were held in the men's compound. Even when they were transferred to the women's compound, they were kept in a segregated area. They also reported that security officers persistently monitored and harassed them.²⁵³

Not Just An Afterthought noted that, at the time, the Department of Home Affairs had no guidelines on the management of trans and gender diverse people in detention. It made 4 recommendations relating to trans women in detention:

- provide all staff working in immigration detention centres where women are detained with initial and ongoing training on the supervision of women and gender sensitivity, including gender-specific needs, women's health and safeguarding women, including LGBTIQ+ women, from violence, abuse and sexual harassment
- develop policy and procedural guidance on the accommodation, welfare, security and management of trans and gender diverse people in detention, drawing on international human rights principles
- ensure that any protective measures for trans and gender diverse people in detention do not impose more restrictive conditions or reduced opportunities than for others in detention
- consider alternatives to closed immigration detention where the safety of a trans and gender diverse person cannot be guaranteed.²⁵⁴

The Department of Home Affairs agreed with the first 3 recommendations and noted the fourth. The Department stated that it already considers alternatives to closed detention under existing arrangements.²⁵⁵

2.4 Justice, policing and imprisonment

- Many trans and gender diverse people have cited Australian Police forces as distrusted institutions.
- Trans and gender diverse people report dehumanising, discriminatory and violent practices from administrators, managers and other workers across police, courts and prison and detention systems.
- Imprisoned trans and gender diverse people are likely to experience physical, sexual and psychological abuse. Prisons also pose challenges because they are segregated by gender and limit access to gender-affirming healthcare.
- Best practice around justice, policing and imprisonment emphasises decriminalisation and justice reinvestment.

Relevant human rights laws and principles

- ***International Covenant on Civil and Political Rights:***
 - **Article 7:** ‘No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.’
 - **Article 9(1):** ‘Everyone has the right to liberty and security of person. No one shall be subject to arbitrary arrest or detention.’
 - **Article 10:** ‘All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.’
 - **Article 14:** ‘All persons shall be equal before the courts and tribunals.’
 - **Article 26:** ‘All persons are equal before the law and are entitled without any discrimination to the equal protection of the law.’²⁵⁶
- ***Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:***
 - **Article 11:** ‘Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.’
 - **Article 16:** ‘Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.’²⁵⁷

- **United Nations Standard Minimum Rules for the Administration of Juvenile Justice ('The Beijing Rules'), ratified in November 1985²⁵⁸**
- **United Nations Standard Minimum Rules for the Treatment of Prisoners ('The Nelson Mandela Rules'), ratified in December 2015²⁵⁹**
- **Yogyakarta Principles** also outline relevant protections, namely:
 - Principle 7 – Right to Freedom from Arbitrary Deprivation of Liberty
 - Principle 8 – Right to a Fair Trial
 - Principle 9 – Right to Treatment with Humanity while in Detention
 - Principle 10 – Right to Freedom from Torture and Cruel, Inhuman, or Degrading Treatment or Punishment
 - Principle 30 – Right to State Protection
 - Principle 33 – Right to Freedom from Criminalisation and Sanction on the Basis of Sexual Orientation, Gender Identity, Gender Expression, or Sex Characteristics.²⁶⁰



Criminal justice systems

Criminal justice systems are the agencies involved in investigating, prosecuting and managing criminal matters. These include police, courts and prison and detention systems. Prison and detention systems are gendered, meaning they treat men and women differently in matters such as facilities and uniforms. These criminal justice systems have responsibilities to maintain the health and wellbeing of people who are arrested, prosecuted and incarcerated.

Criminal justice systems come under different federal, state and territory jurisdictions. In the late 1990s, jurisdictions began adopting guidelines or policies relating to trans and gender diverse people. These guidelines addressed matters like police body searches, accommodation in prisons and access to healthcare. Across jurisdictions the policies are inconsistent and at times adopt practices that are not evidence-based.²⁶¹

International research has documented how trans and gender diverse people regularly experience dehumanising, discriminatory and violent practices from workers, administrators, managers, and others across criminal justice systems.²⁶² Australian research on trans and gender diverse people in criminal justice systems shows similar themes.²⁶³ Historical research shows that criminal justice systems caused significant harm to trans and gender diverse people in Australia across the 20th and 21st centuries.²⁶⁴ Other studies have documented ways police have targeted young people with diverse gender expressions, identities and sexualities.²⁶⁵

As noted in section 3.1, a lot of Australian data does not capture trans and gender diverse people. Victoria Legal Aid's submission noted that the lack of data means:

We see specific limitations in legislation, consultation processes and systems, including insufficient data recording practices of key agencies such as Victoria Police, Corrections Victoria, Youth Justice and the Adult Parole Board. This presents barriers to people reporting their gender identity and leads to the erasure of trans and gender diverse people in data and other reports.²⁶⁶

Research and submissions also show great distrust in criminal justice systems. ANROWS' report 'Developing LGBTQ programs for perpetrators and victims/survivors of domestic and family violence' includes these words from a queer and trans woman:

If [you and your partner are] both queer or you're both trans, you're both trying to survive in a world that wants to kill you, basically. And by exposing your partner, even if they're being abusive or violent ... exposing them to interactions with police or the criminal legal system, or prison, it could, ... be the death of them. And it's far worse than the sort of abuse or violence that is being done within that relationship.²⁶⁷

Several submissions stated that trans and gender diverse people face discrimination and mistreatment by police, courts and in prison environments.²⁶⁸

Submissions also stated that trans and gender diverse people face barriers to accessing legal services that can support them, and that legal services for LGBTIQ+ communities are critically underfunded.²⁶⁹

The National Access to Justice Partnership (NAJP) is a 5-year agreement between Commonwealth and state and territory governments. It aims for the governments to work in partnership to enhance access to justice for people experiencing vulnerability and financial disadvantage. LGBTIQ+ people are a national priority client group under the NAJP.²⁷⁰ However, NAJP performance indicators do not require reporting on data relating to several priority client groups, including:

- LGBTIQ+ people
- people experiencing homelessness
- people in custody
- vulnerable migrants, asylum seekers and refugees
- people in outer regional and remote areas.²⁷¹

In August 2025, Consulting & Implementation Services (CIS) and Inner City Legal Centre launched 'A Blueprint for Equality: Resourcing LGBTIQ+ Community Legal Centres'. This report includes an assessment of the critical

gaps in legal service provision for LGBTIQ+ people. It also outlines what changes are required to ensure LGBTIQ+ people can access legal support.²⁷² At the time of this report, there has been no formal commitment to resource specialist LGBTIQ+ legal services.

Police

There is almost no Australian data about the number of trans and gender diverse people arrested, charged and detained by police, processed through the courts and subjected to periods of detention.²⁷³ This is, in part, because of state and territory differences around recognition of gender (see section 3.4) and the management of police. There is significant international evidence demonstrating that police and other securitised law enforcement (such as private security) perpetrate harms and violence against trans and gender diverse people.²⁷⁴

In Australia, trans and gender diverse people often report disrespectful treatment, misgendering and feeling uncomfortable when disclosing their trans or gender diverse identity to police.²⁷⁵ Earlier research reported examples of police failing to protect trans and gender diverse people from public harassment, and police perpetrating public harassment and discrimination.²⁷⁶ In a report prepared for the NSW Special Commission of Inquiry into LGBTIQ Hate Crimes, a trans participant shared:

Back in my community, one of our Sistersgirls, the police took a fancy to her, and because she wouldn't give him sex, he pulled a gun on her. Anyway ... we took him to Court, but he never got dismissed; he got moved.²⁷⁷

Trans and gender diverse people also report significant mistrust and perceive police as lacking knowledge about gender diversity.²⁷⁸ For instance, Transgender Victoria submitted to a Victorian coronial inquest into the death of a trans woman: 'Police relations with the broader LGBTIQ+ community and the TGD community in particular have deteriorated'.²⁷⁹

Submissions reinforced these findings and suggested that many trans and gender diverse people did not trust police. This

reduces trans and gender diverse people's faith in the justice system, making them less likely to report hate crimes.²⁸⁰ The Gender Centre – Australia's longest-running support and advocacy service for trans and gender diverse people – said in its submission: 'the long history of marginalisation, stigmatisation and abuse of people makes TGD community members cynical that government or police care about them'.²⁸¹ The Justice and Equity Centre gave this summative statement:

Our clients have experienced the criminal legal process as 'offenders' and 'prisoners'. Our TGD clients have had hurtful, humiliating and distressing interactions with police officers in NSW. Some clients have experienced violent physical abuse; other clients have been emotionally abused (e.g. called hurtful names, presumed to be mentally unwell, threatened with the prospect of sexual assault in prison) and deliberately misgendered (where clients have requested police use their legal/preferred name and gender identity, and police have expressly refused).²⁸²



Several submissions, including those drawing on lived and living experience, stated that police have failed to prevent or respond to crimes committed against trans and gender diverse people.²⁸³ Anti-Discrimination NSW noted:

During the LGBTIQ+ Safety Summit in February 2024 hosted by the City of Sydney in collaboration with ACON, participants highlighted the pain and anguish they felt when facing homophobia, transphobia and discrimination in their communities. They spoke of increasing levels of abuse and threatening behaviour, and the failure of police to intervene and respond to their calls for help. This contributes toward a lack of trust in the police to protect LGBTIQ+ communities.²⁸⁴

CASE STUDY

Isabel** lives in private community housing and is a transgender woman with disabilities including balance and co-ordination issues and motor function issues in one arm. Her neighbour has a history of verbal abuse towards her, including transphobic comments. He throws things on her car regularly. She is frightened of him and made a complaint to police. Police told her they were not able to take out an AVO for her protection. She was informed to take one out herself. Police are still required to serve private AVOs however at the first court date one month after the application, they had still not served the application on the other party. A private application also means there is no form of protection for Isabel until the court makes an interim or final decision. She does not want to leave the area as she has stable employment and is valued and feels belonging in the community – as an older trans woman that can be incredibly difficult to achieve.

**Pseudonym used²⁸⁵

(Inner City Legal Centre submission)

Police agencies sometimes point to training programs designed to educate their officers about trans and gender diversity. However, researchers also found that police often disengage or behave disrespectfully during these training sessions.²⁸⁶ The NSW Special Commission of Inquiry into LGBTIQ Hate Crimes recommended additional mandatory training concerning engagement with LGBTIQ+ communities. This should include training on the role of conscious and unconscious bias.²⁸⁷

Trans and gender diverse people have reported inadequacies in police LGBTIQ+ Liaison Officer programs (often called LLOs or GLLOs). LLOs are meant to be contact points within the police for LGBTIQ+ people. They work with communities and advocate within police forces. Some challenges trans and gender diverse people have identified with LLO programs are:

- There are no published lists of who LLOs are, where they are stationed or how to contact them.
- Many LLOs are believed to be concentrated in inner city areas
- LLOs tend to be better versed in gay and lesbian matters and less skilled at supporting trans and gender diverse people.
- It is not mandatory for police dealing with matters involving trans and gender people to contact LLOs.²⁸⁸

Submissions acknowledged that there has been some progress in police-community relations. Still, submissions were critical of police attitudes towards trans and gender diverse communities.²⁸⁹ Furthermore, high-profile incidents of transphobia within police forces have led many trans and gender diverse people to be sceptical about reform within the ranks.

CASE STUDY

Dani Laidley

In May 2020, the *Herald Sun* published photos of former North Melbourne Kangaroos player and coach Danielle (Dani) Laidley while in police custody. A police constable shared photos of Laidley around social networks along with transphobic commentary. A constable then leaked the photos to the media – outing Laidley as trans.

In 2021, 2 Victoria Police officers faced charges including accessing and disclosing police information and wilful misconduct in public office. A magistrate dismissed the charges in March 2022. Laidley also lodged a civil suit in Victoria's Supreme Court, claiming Victoria Police were liable for the officers' actions. Victoria Police settled this suit, and the Chief Commissioner of Police publicly acknowledged that what happened 'was a breach of Dani's human rights, it's inappropriate conduct, it's not acceptable'.²⁹⁰

Courts

Research has found some court experiences to be discriminatory and harmful for trans and gender diverse people. Trans and gender diverse people report being subjected to misgendering and other forms of humiliation and discrimination. Submissions also raised this concern.²⁹¹ Court forms in some jurisdictions only enable a person to identify as female or male, and they prevent sex or gender from being self-identified.²⁹²

Research has found that court judgments and coronial inquests also frequently deadname trans and gender diverse people. These legal proceedings use language widely considered as slurs and sometimes unnecessarily make references to the person's genitalia.²⁹³ A report on trans and gender diverse people's experiences of hate crimes explained: 'even if a legal name needs to be used in the reference to the file, the report can note their affirmed name and pronouns and use that language throughout'.²⁹⁴ Research has found instances when Australian judges implemented this practice: using a trans person's preferred pronouns, name and terms.²⁹⁵



Deadname

This is a common expression for someone's name recorded at birth. It is generally considered harmful to use someone's deadname without their permission, even when referring to their past.²⁹⁶ Submissions noted that trans and gender diverse people are regularly deadnamed in various contexts. Some examples included healthcare,²⁹⁷ courts and the legal system,²⁹⁸ and educational institutions.²⁹⁹

One legal academic proposes several reforms:

- Criminal court forms across all jurisdictions should be reviewed to determine whether requests for identification of sex, gender or pronouns is necessary. When it is necessary, forms should allow for self-identification.
- Court staff and judicial officers should receive specialised training related to gendered terminology and respectful language.
- Courts should implement appropriate supports for trans and gender diverse people as they progress through criminal justice systems.³⁰⁰

Custodial and prison environments

Australia has limited research on the prevalence of trans and gender diverse people entering detention and prison environments. As the Commission noted in the 2015 report 'Resilient Individuals', 'it has been widely recognised that transgender people are more likely than the general population to experience assault and self-harm, and that these vulnerabilities are magnified when transgender persons are incarcerated'.³⁰¹

International research shows trans and gender diverse people, especially those who experience racism, are at increased risk of imprisonment. Research suggests this is partly driven by 'disproportionate experiences of discrimination, violence and victimisation ... across their [trans and gender diverse people's] lifespan'.³⁰²

Experiences of family rejection, violence and discrimination can expose trans and gender

diverse people to precarious employment, financial instability, housing insecurity and inability to access healthcare. This in turn can lead to criminalised behaviours such as sex work, theft and substance misuse. These behaviours can be a response to the impacts of victimisation and minority stress. As noted above, the ways that police interact with trans and gender diverse people can also heighten their risk of coming into contact with the criminal justice system and imprisonment.³⁰³

Guidelines

Anti-discrimination laws can apply in detention and prison settings, particularly in the provision of facilities and services to inmates.³⁰⁴ Guidelines around access to healthcare and identity recognition – covered in sections 3.2 and 3.4 – also apply to detention and prison settings.

The Corrective Services Administrators' Council issues the 'Guiding Principles for Corrections in Australia'. These are principles which state and territory corrections services should follow when designing their policies, practices and performance standards. The principles list the following points specific to trans and gender diverse people:

- 1.16: Female prisoners are placed separately to male prisoners, and due regard is had to the unique needs of transgender and gender diverse prisoners when making placement decisions.
- 1.3.14: Alternative screening methods, such as scans, are used in preference to strip searches. Strip searches are ... performed by a staff member of the same gender as the person searched (or nominated by a prisoner who is transgender, gender diverse or intersex) wherever possible.
- 1.3.15: Staff performing strip searches consider and make any reasonable modifications to account for a prisoner's background, gender identity, religion, cultural identity, or disability.
- 2.3.8: The placement assessment of transgender, gender diverse and intersex prisoners includes comprehensive and holistic consideration of their individual safety and wellbeing, and takes into account their stated preferences.

- 3.1.17: Health care provided to LGBTIQ+ people in custody is appropriate to their individual needs, with due consideration to the unique needs of transgender and gender diverse prisoners.³⁰⁵

Most states and territories have guidelines which follow these principles. However, there is little monitoring around compliance with the principles, or with existing guidelines and policy.

Prison facilities

Most guidelines suggest that trans and gender diverse people should usually be accommodated in prisons which align with their affirmed gender. One notable exception to this is the Northern Territory. In October 2025, the Chief Minister announced plans to change their guidelines and house prisoners according to sex recorded at birth.³⁰⁶

Debates about trans women and non-binary people in prisons

In October 2025, media reports sparked public debates about trans women and non-binary people in women's prisons. The reports suggested that trans women would pose a threat to cisgender women. The Chief Minister of the Northern Territory then announced that trans women would no longer be housed in women's prisons. The Northern Territory Anti-Discrimination Commissioner released a statement advising that banning trans women and non-binary people from women's prisons may be unlawful under the *Anti-Discrimination Act 1992* (NT). The Commissioner also emphasised:

Public statements suggesting that trans women are a safety threat to others in custody are transmisogynistic and contrary to the evidence. National and international data show that trans women are at a far higher risk of sexual assault, harassment and self-harm when housed in men's units.³⁰⁷

Research from both Australia and the US shows that trans and gender diverse prisoners have varied preferences for where they want to be housed. Some factors that influence their preferences include if they have previously been in prison, the length of their sentence, their sexual orientation and safety.³⁰⁸ Some Australian authorities have given trans and gender diverse prisoners the opportunity to express their preference, but others have not.³⁰⁹

State and territory guidelines emphasise assessing trans and gender diverse people's whole situation and preferences. The policies give prison secretaries and staff a great deal of discretion. They can consider factors like the prisoner's safety, the person's preferred prison and the gender on their legal documentation. They also consider the risk the prisoner may pose to the order, management and safety and wellbeing of all prisoners.

Research found that in practice, these discretionary measures meant that trans and gender diverse people could be assigned to either men or women's prisons regardless of their preference and affirmed gender.³¹⁰ Research identified that rather than considering a range of relevant factors – such as safety, self-identification and their individual circumstances – prison authorities often only considered a prisoner's sex recorded at birth.³¹¹ This also meant prisoners may be subjected to invasive examinations.³¹²

Several submissions expressed concerns about imprisoned trans and gender diverse people placed in facilities that do not align with their affirmed gender or preference. The submissions echoed research showing that this practice increases trans and gender diverse people's risk of violence, including physical, sexual and psychological abuse.³¹³ As Victoria Legal Aid highlighted, this is particularly risky for trans women and non-binary people placed in men's facilities.³¹⁴

Solitary confinement

Trans and gender diverse people often face extended periods in solitary confinement, or 'protective custody'.³¹⁵ Several submissions noted that prison authorities justify that this is for their 'protection'.³¹⁶ Victoria Legal Aid explained:



Trans women incarcerated in women's prisons are disproportionately subject to standard long term solitary confinement, irrespective of charges, history, hormone access or gender-affirming surgery. This ranges from six weeks to indefinite solitary confinement. In men's prisons, trans women are acutely unsafe and are often held in solitary confinement 'for their protection'.³¹⁷

One submission from a group that works with trans and gender diverse prisoners gave the example of a trans woman subjected to solitary confinement for 2 years and 11 months. The submission described solitary confinement this way:

Individuals are locked in cells approximately 6 x 4 metres for 23 hours a day with minimal access to fresh air or social interaction. It is not uncommon for individuals to be unable to leave their cell at all in a 24-hour period due to frequent lockdowns or staffing issues. When allowed outside, they are permitted to enter an airing yard outside of the cell and prevented from any social interactions with other women.³¹⁸

A submission from 2 academics who specialise in trans and gender diverse people in the criminal justice system stated: 'this practice is internationally recognised as a human rights violation, and it is known to exacerbate mental health issues and deprive TGD people of their right to social interaction and support, contravening international standards on the treatment of prisoners'.³¹⁹

For trans women and non-binary people in women's prisons, there is also 'a consistent narrative that transgender women, particularly, should be kept separate from other female prisoners for the "safety" of cisgender women'.³²⁰ Protecting the safety of all people in detention is critical. This ultimately requires assessment of individual circumstances. Safety assessments for trans and gender diverse people should consider the specific circumstances of the individual, rather than applying a generalised approach.

The Commission is particularly concerned at the use of solitary confinement as a default mechanism to address these issues. As noted in the Commission's recent report [*'Left Alone': A Review of Solitary Confinement and Similar Practices in Australia's Youth Justice*](#)

[Systems](#), solitary confinement can negatively affect inmates' physical and mental health. It can undermine their sense of self and make it harder for them to reintegrate into the detention population and wider community after release.³²¹

Violence, abuse and denial of human rights

Research from Australia and the US has reported prison officers calling trans women derogatory names like 'dog and mutt', 'thing' and 'sex degenerate'.³²² Research from the US and Australia also shows that other inmates routinely subject trans women and non-binary people in men's prisons to ongoing sexual violence.³²³ This also happens to young trans women and non-binary people in juvenile custodial settings.³²⁴

Research and submissions show that authorities frequently deny imprisoned trans and gender diverse people appropriate healthcare, including access to gender affirming hormone therapy.³²⁵ Corrections officers often subject trans and gender diverse inmates to strip searches. Officers and other inmates frequently misgender, deadname and subject trans and gender diverse inmates to transphobic harassment.³²⁶

The mistreatment that trans and gender diverse people face in prison has led to suicidal ideation and suicide attempts.³²⁷ Some trans women have talked about self-harming or entering sexual relationships as a form of 'protection' from others sexually assaulting them.³²⁸

There are also unique challenges faced by trans and gender diverse people who seek to change their name and gender while imprisoned. According to Victoria Legal Aid's submission, prisoners often face significant delays, sometimes of more than 2 years, and must navigate multiple gatekeeping decision-makers and systems. An additional barrier in Victoria is that authorities must consider if the name or gender change would be offensive to a victim or the community.³²⁹ This is a subjective judgement.

Existing Australian research on trans and gender diverse people in prisons does not disaggregate data based on intersecting identities such as race or disability. However, several studies quote multiple participants

who identified as being Aboriginal and Torres Strait Islander people. The Beyond Bricks & Bars Trans Decarceration Project noted that of its 62 participants, 26% (16) were Aboriginal and Torres Strait Islander people and 13% (8) were culturally and racially marginalised.³³⁰ Although more data is needed, these findings suggest that, as one submission from an organisation that works with trans and gender diverse prisoners noted: 'Disproportionately, trans and gender diverse (TGD) people who are incarcerated are Aboriginal trans women, Sistergirls and trans women of colour, reflecting the ways in which racism, transphobia and misogyny intersect with criminalisation'.³³¹

Decriminalisation and justice reinvestment

Several submissions pointed to practices that aim to reduce imprisonment rates through prevention and decriminalisation of particular crimes.

Research shows that trans and gender diverse people have higher prevalence of substance misuse and sex work than the general population. This is even more pronounced for trans and gender diverse people with intersecting marginalisations, such as Aboriginal and Torres Strait Islander people and other culturally and racially marginalised people.³³²

Sex work and drug use or possession are illegal in several Australian jurisdictions. Advocates for decriminalisation of these offences point to domestic and international jurisdictions that have already done so and with positive outcomes.³³³ Sex work laws are inconsistent across Australia. The Northern Territory (2019), Victoria (2022) and Queensland (2024) have fully decriminalised sex work; in the ACT, NSW and Tasmania some forms of sex work are decriminalised but with restrictions; in South Australia and Western Australia sex work is still illegal.³³⁴

Even beyond specific laws, police can change their practices in ways that reduce imprisonment rates. Police should be directed not to perform specific activities such as stopping, questioning and searching young trans and gender diverse people in public because of their appearance.³³⁵

Justice reinvestment refers to when communities work together to redirect some of the money spent each year on prisons (estimated to be more than \$6 billion) towards rebuilding communities.³³⁶ Justice reinvestment involves strengthening community support infrastructure including education, healthcare, housing, employment initiatives and mental health and substance misuse support. The Australian Government has run justice reinvestment programs in First Peoples communities which have proven successful.³³⁷ Submissions advocated for similar approaches with trans and gender diverse people.³³⁸



Beyond Bricks & Bars

This is a Victorian, community-led justice reinvestment initiative. It supports trans and gender diverse people in prison, at risk of imprisonment and those transitioning from prison to the general community. Project members provide peer social work and counselling services, prepare post-release plans and provide referrals before release. They also assist trans and gender diverse people transitioning from prison to access services like accommodation and Centrelink, and to purchase groceries, gender affirming clothing and other items.

An evaluation of Beyond Bricks & Bars found that it had delivered numerous benefits, including:

- improved mental and physical health and wellbeing
- reduced suicide attempts
- support transitioning into the community
- avoiding and reducing further imprisonment
- greater understanding of gender affirmation
- improved self-advocacy from imprisoned people.³³⁹

2.5 Housing

- Housing is a human right. Australian governments do not adequately ensure the right to housing. This affects the entire population, with particular challenges for trans and gender diverse people.
- Disadvantage and discrimination against trans and gender diverse people in housing is both direct and indirect.
- Housing assistance, homelessness supports and crisis accommodation need to be inclusive of trans and gender diverse people.

Relevant human rights laws and principles

- **Article 11 of the *International Covenant on Economic, Social and Cultural Rights*:** says that States party to the Covenant ‘recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right’.³⁴⁰
 - International organisation United Nations Habitat specifies that the right to housing under ICESCR does not require states to build homes for all citizens. Rather, ‘appropriate steps’ means governments must provide means to ensure that ‘everyone has access to housing resources adequate for health, wellbeing, security and other human rights’.³⁴¹
- **Yogyakarta Principle 15 – The Right to Adequate Housing:** says that ‘Everyone has the right to adequate housing, including protection from eviction, without discrimination on the basis of sexual orientation or gender identity’. The principle also calls for governments to ‘Take all necessary legislative, administrative and other measures to ensure security of tenure and access to affordable, habitable, accessible, culturally appropriate and safe housing, including shelters and other emergency accommodation, without discrimination on the basis of sexual orientation, gender identity or marital or family status’.³⁴²



Housing as a human right

Housing affordability and accessibility conditions within Australia have deteriorated in recent years.³⁴³ Insecure housing or homelessness significantly impacts on the enjoyment of other rights, such as the right to an adequate standard of living, the right to education, the right to liberty and security of the person, the right to privacy and the right to freedom from discrimination. The failure to protect housing as a human right exposes trans and gender diverse people to other disadvantages and discrimination.³⁴⁴

There are limited protections of the right to housing in Australia. This is despite research indicating broad Australian community support for such protections.³⁴⁵

In September 2025, the ACT amended its *Human Rights Act 2004* (ACT) to recognise a right to housing; this comes into effect in 2027.³⁴⁶ Queensland and Victoria's human rights acts do not explicitly recognise a right to housing. However, Queensland's law has provisions relating to rights of social housing tenants. Residents in both states have used other parts of their human rights acts to challenge matters relating to housing.³⁴⁷

Other ways to support trans and gender diverse people's right to housing are through

participatory policymaking. This means federal, state and territory governments engage with trans and gender diverse people as part of their housing and homelessness policy development.³⁴⁸

There are no federal Australian housing policies which specifically focus on trans and gender diverse people. Data about housing assistance and specialist homelessness services does not include trans and gender diverse people as a discrete group. This data can support the development of housing assistance and specialist homelessness support services to meet the needs of trans and gender diverse people.³⁴⁹ Regulatory settings, policies, compliance and reporting also need to capture gender diversity. This is essential to monitor long-term improvements to housing outcomes for trans and gender diverse people.

Many submissions observed that trans and gender diverse people have lower rates of ownership and higher rates of housing stress than cisgender people in Australia.³⁵⁰ As Equality Australia summarised: 'While housing is a concern for everyone, discrimination, the compounding effects of economic disadvantage and concerns around safety exacerbate the difficulties trans and gender diverse people have in securing safe and affordable housing'.³⁵¹

Homelessness rates

Private Lives 3 was a national study conducted by ARCSHS. It provided data on the health of trans and gender diverse people in Australia. That data included stark figures about homelessness:

Trans and gender diverse participants reported higher rates of ever experiencing homelessness than cisgender participants. Over one third (34.3%; n = 103) of trans men, 33.8% (n = 311) of non-binary participants, 31.9% (n = 91) of trans women, 19.8% (n = 584) of cisgender women and 16.8% (n = 391) of cisgender men reported ever experiencing homelessness.³⁵²

Some common circumstances respondents gave relating to their homelessness were: financial stress, mental health issues, unemployment, family violence and violence in their previous accommodation.³⁵³

Housing discrimination

Disadvantage and discrimination in housing may be direct and/or indirect. A few submissions described trans and gender diverse people who faced direct discrimination and a lack of equal opportunities to access both housing and crisis accommodation.³⁵⁴ Equality Australia gave the example of a trans woman from Queensland who said: ‘my husband and I were denied a lease renewal last year due to my transgender status’.³⁵⁵

Family Access Network – a homelessness service in Victoria – also noted that trans and gender diverse people often face barriers in the private rental market because of ‘issues around identification required to apply for properties. E.g. name on application may not match a person’s gender presentation’.³⁵⁶

Submissions also gave examples of trans and gender diverse people living in public, social or private housing who faced discrimination, harassment and abuse. For example, Inner City Legal Centre described ‘a notable rise

in trans women with disabilities living in community housing that are the subject of vilification and harassment from their neighbours’.³⁵⁷

The TRANSform longitudinal study of 807 trans and gender diverse participants found that of those survey respondents living with other people, 92% strongly agreed or agreed that the people they lived with treat them fairly and respectfully. The report also found that within the past 12 months:

- 1 in 14 (7%) had experienced anti-trans discrimination, threats of violence, or violence from a neighbour
- 1 in 20 (6%) had moved where they were living because they felt unsafe
- 1 in 10 (10%) had lived somewhere they felt unsafe but did not have the option to move
- 1 in 2 (52%) reported one or more type of housing instability
- 1 in 10 (9%) reported one or more type of homelessness.³⁵⁸

Other submissions focused on housing crises facing young trans and gender diverse people in Australia. Rainbow Futures WA – Western Australia’s peak LGBTIQ+ advocacy organisation – referred to the Trans Pathways report and other research in their submission:

A survey of 859 trans and gender diverse Australians (14–25 years old) found that 22% had experienced accommodation problems or homelessness ... LGBTIQ+ people are listed in the Parliamentary Inquiry into Homelessness Report released in August 2021 ... 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.³⁵⁹

A joint submission from the Youth Pride Network, Transfolk of WA and Freedom Centre noted that trans and gender diverse people are overrepresented in homelessness statistics due to ‘their increased vulnerability from family rejection and violence [and] a lack of social supports’.³⁶⁰

Multiple submissions pointed to the difficulties that trans and gender diverse people face accessing and retaining paid employment.³⁶¹ Precarious employment makes many trans and gender diverse people vulnerable to missing out on rentals and the housing market.

Homelessness and crisis accommodation services

Submissions also expressed concern over the treatment of trans and gender diverse people in homelessness services. There are no targeted housing services for homeless trans and gender diverse people. Family Access Network noted that there are only 2 dedicated LGBTIQ+ family violence refuge beds in Victoria. Its submission explained:

In Transitional Housing, Family Access Network still supports the only 3 LGBTIQ+ exclusive transitional housing properties in the state of Victoria. These properties are essential to provide our [y]oung TDG [sic] clients the time and resources to transition to sustainable long-term secure housing. Demand for these properties continually outstrips availability.³⁶²

The joint submission from Youth Pride Network, TransFolk of WA and Freedom Centre stated that ‘crisis accommodation services are often created on the premise of gendered rooms and areas and thus are unable to accommodate for TGD individuals easily or inclusively’.³⁶³

The Domestic, Family and Sexual Violence Commission’s 2022 *National Plan to End Violence Against Women and Children 2022–2032* notes the ‘over-representation of trans people (binary and non-binary) as victim-survivors of family and domestic violence’.³⁶⁴ The National Plan does not identify specific barriers to crisis accommodation, nor does it provide guidance on the inclusion of trans and gender diverse people in existing services. Still, the plan recommends capacity building and for housing and infrastructure plans to include LGBTIQ+ lived and living experience from the early design phase through to completion of new crisis accommodation and social housing.³⁶⁵

The Victorian Royal Commission into Family Violence addressed the issue of crisis accommodation for trans and gender diverse people. It noted that, under legislation at the time, crisis accommodation providers could exclude trans and gender diverse people if they had not updated gender markers on their birth certificates.³⁶⁶ Since then, the Victorian Government has updated its laws on legal recognition (see section 3.4).

Importantly, the Royal Commission into Family Violence recommended the need to clarify relevant provisions of anti-discrimination law ‘to remove any capacity for family violence accommodation and service providers to discriminate against lesbian, gay, bisexual, transgender and intersex Victorians’.³⁶⁷

The Royal Commission’s final report outlined how this could work in practice by using a human rights approach ‘which seeks to balance the rights of those currently receiving and those seeking to receive support’.³⁶⁸ The report recommended that the communal refuge model be phased out and replaced with self-contained units. The report acknowledged that ‘this may not relieve all the problems that arise from homophobia and transphobia but may assist with those that occur in a shared living environment’.³⁶⁹ This issue is relevant to other state and territory jurisdictions as well.

The Victorian Royal Commission into Family Violence also recommended that all funded family violence services should achieve Rainbow Tick accreditation.³⁷⁰ Rainbow Tick is one example of a ‘quality framework that helps health and human services organisations show that they are safe, inclusive and affirming services and employers for the LGBTIQ community’.³⁷¹ Rainbow Tick requires organisations to meet 6 standards around organisational capability, workforce development, consumer participation, a welcoming and accessible organisation, disclosure and documentation and culturally safe and acceptable services.