

Committee Secretariat
Legislative Council Legal and Social Issues Committee
Parliament House, Spring Street
East Melbourne, Victoria 3002

CC: Hon Martin Foley MP, Minister for Equality

Dear Committee members,

The Victorian Gay & Lesbian Rights Lobby (VGLRL), in conjunction with Transgender Victoria, is pleased to provide the following submission to the Inquiry into Homelessness in Victoria, which highlights the importance of better responding to homelessness amongst Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ) communities.

The VGLRL is a community based advocacy group that works towards equality, social justice and advancing human rights for lesbian, gay, queer, bisexual and same sex attracted Victorians. We work constructively, cooperatively and respectfully with transgender, bisexual, intersex and other organisations that support our organisation's respective mission and vision, such as Transgender Victoria.

LGBTIQ communities are at a higher risk of becoming homeless compared to the wider community. This risk is further compounded for LGBTIQ youth and transgender, intersex and disabled people. However, little research has been conducted into the causes, rates and experiences of LGBTIQ homelessness – this lack of research is a clear obstacle in the pathway to properly addressing the issue.

Recommendations accompanying this submission are informed by the results of a survey of LGBTIQ individuals by the VGLRL. The survey was conducted in response to the Victorian Government's \$3 million funding commitment to address homelessness in Victoria's LGBTIQ community. This survey prompted community members to rank four focus areas that would benefit from the funding. Respondents were also invited to share any personal experiences with homelessness that they may have had. Our subsequent recommendations reflect these community responses.

Thank you for your consideration of our submission and its recommendations. We welcome the opportunity to discuss these with you further during the course of the inquiry. If you require any additional information please contact info@vglrl.org.au.

Sincerely,

Mr Maxim Thomas
Co-Convenor, VGLRL

Ms Nevena Spirovska
Co-Convenor, VGLRL

Ms Brenda Appleton
Chair, Transgender Victoria



VICTORIAN GAY & LESBIAN RIGHTS LOBBY (VGLRL) SUBMISSION TO LEGAL AND SOCIAL ISSUES COMMITTEE'S INQUIRY INTO HOMELESSNESS IN VICTORIA

INTRODUCTION

Greater support, research and awareness are needed to address the issue of LGBTIQ people experiencing homelessness.

LGBTIQ people experience homelessness at higher rates than the broader population. This could be because they are kicked out of the family home because they are LGBTIQ. It could be because of discrimination by landlords preventing entry to the rental market. It may be because of employer discrimination preventing them from achieving employment. It could also be because of the continued discrimination across our community that contributes to LGBTIQ people having higher rates of mental health and drug and alcohol issues.

Though the limited research demonstrates that the rates are high, we still do not know enough about the root causes of homelessness for LGBTIQ people. Prevalence, trends and primary causes for the homelessness experienced by LGBTIQ people are not comprehensively measured.

Many services that support people experiencing homelessness are not equipped to support or include LGBTIQ people. Anti-discrimination provisions are missing in some parts and outdated in others. There is only one LGBTIQ focused provider in Victoria.

However, there has been some positive work, reform and funding commitments made in recent years. It is important that we build off this and undertake additional work to combat homelessness experienced by LGBTIQ people.

This submission provides recommendations around how we may be able to achieve this.

INCIDENCE OF HOMELESSNESS AMONGST LGBTIQ VICTORIANS

Over the period of January to September 2019, the VGLRL conducted a survey across LGBTIQ communities, both face to face at the Midsumma Carnival and online, to ascertain both the incidence of and best responses to homelessness amongst LGBTIQ Victorians.

There were a total of 120 respondents to the survey. Although a relatively small sample size, the results of this survey indicate high levels of homelessness, housing insecurity and risk of homelessness amongst LGBTIQ communities. The results also complement existing analysis undertaken which indicate significantly higher rates of homeless amongst LGBTIQ people.¹

Of the respondents to the survey, **47.5% had experienced homelessness, housing insecurity or been at risk of homelessness**. Further, **40% reported discrimination against them in the housing market**.

These rates increase significantly across different parts of LGBTIQ communities.

¹ McNair et al, 'LGBTQ Homelessness: Risks, Resilience and Access to Services in Victoria' (Gay and Lesbian Foundation of Australia, 2017) 22.

Trans or Gender Diverse Victorians

20% (24) of respondents were trans or gender diverse. **Of trans and gender diverse people, 79% experienced homelessness in some form before, and 62.5% had been the target of discrimination while accessing the housing market.**

Service providers have 'noted a dramatic increase in the number of trans clients attending their services' over the period from 2015 to 2017 which 'may relate to the increased media attention, allowing trans people to feel more inclined to approach services.'²

Intersex Victorians

3.33% (4) of respondents stated that they had an intersex variation. **Of people with an intersex variation, 50% had experienced homelessness before, and 75% had been discriminated against in the housing market.** These findings are not inconsistent with a 2016 survey,³ which found that at any one time **6% of people with intersex variations were currently homeless or living precariously.**

LGBTIQ Victorians with a Disability or Impairment

27% (32) of respondents had a disability or impairment. **Of LGBTIQ people with a disability or impairment, 78% had experienced homelessness to some degree before, and 66% had experienced discrimination in the housing market.**

RESPONDING TO THE INCIDENCE OF HOMELESSNESS AMONGST LGBTIQ VICTORIANS

Many respondents to our community survey provided suggestions on how the Government should tackle the high incidence of homelessness amongst LGBTIQ Victorians. In making our recommendations, we have been informed by our community's perspective on this issue, as well as the limited research conducted on homelessness.

Research

Very little research has been conducted into the causes, rates and experiences of LGBTIQ homelessness, which poses a clear obstacle to addressing it.

A study conducted by the Gay and Lesbian Foundation of Australia, in collaboration with the University of Melbourne and Swinburne University of Technology, highlighted the limited research undertaken to understand homelessness across LGBTQ communities. The final report of the research recommended 'further research should be undertaken to investigate the homelessness risks and service needs and

² Ibid.

³ Jones et al, 'Intersex: Stories and Statistics from Australia' (Open Book Publishers, 2016) 76.

important intersections of LGBTIQ people, particularly people with intersex variations, multi-faith, multi-cultural, Aboriginal and Torres Strait Islander people, and people living with a disability.⁴ VGLRL strongly supports this recommendation.

Research into the rates and causes of LGBTIQ homelessness is critical to enable appropriate strategies to be put into place to begin to address its root causes, and to better support LGBTIQ people experiencing it.

Recommendation 1: The Victorian Government should fund research into the prevalence, causes and frequency of homelessness experienced by LGBTIQ people.

Discrimination

Discrimination is a central driver of homelessness for LGBTIQ people.⁵ Whilst the Victorian *Equal Opportunity Act* contains anti-discrimination protections based on gender identity and sexual orientation, there are no protections based on sex characteristics and the definitions of ‘sexual orientation’ and ‘gender identity’ are out of date.

Currently, the *Equal Opportunity Act* states:

gender identity means— (a) the identification on a bona fide basis by a person of one sex as a member of the other sex (whether or not the person is recognised as such)— (i) by assuming characteristics of the other sex, whether by means of medical intervention, style of dressing or otherwise; or (ii) by living, or seeking to live, as a member of the other sex; or (b) the identification on a bona fide basis by a person of indeterminate sex as a member of a particular sex (whether or not the person is recognised as such)— (i) by assuming characteristics of that sex, whether by means of medical intervention, style of dressing or otherwise; or (ii) by living, or seeking to live, as a member of that sex...

*sexual orientation means homosexuality (including lesbianism), bisexuality or heterosexuality.*⁶

This presents issues for LGBTIQ people:

1. There is no explicit protection for people with intersex variations under the *Equal Opportunity Act* – this is why ‘sex characteristics’ should be included as a protected attribute.

⁴ McNair et al, ‘LGBTQ Homelessness: Risks, Resilience and Access to Services in Victoria’ (Gay and Lesbian Foundation of Australia, 2017) 61.

⁵ Ibid 24.

⁶ *Equal Opportunity Act* s 4.

2. The definition of 'sexual orientation' does not capture all sexual orientations, only referring to heterosexuality, bisexuality and homosexuality – the more expansive definition in the Commonwealth *Sex Discrimination Act* is preferred and should be adopted.
3. The definition of 'gender identity' in the *Equal Opportunity Act* does not capture non-binary gender identities – again, the more expansive definition in the Commonwealth *Sex Discrimination Act* is preferred and should be adopted.

As such, it is recommended that the definitions in Section 4 of the Commonwealth *Sex Discrimination Act* are adopted to bring the legislation between jurisdictions in line with each other, specifically:

gender identity means the gender-related identity, appearance or mannerisms or other gender-related characteristics of a person (whether by way of medical intervention or not), with or without regard to the person's designated sex at birth...

sexual orientation means a person's sexual orientation towards: (a) persons of the same sex; or (b) persons of a different sex; or (c) persons of the same sex and persons of a different sex.⁷

Recommendation 2: Section 6 of the *Equal Opportunity Act 2010* should be amended to include 'sex characteristics' as an attribute on the basis of which discrimination is prohibited.

Recommendation 3: Section 4 of the *Equal Opportunity Act 2010* should be amended to bring the definitions of 'sexual orientation' and 'gender identity' in line with that in section 4 of the *Sex Discrimination Act 1984*.

Unfortunately, the *Equal Opportunity Act* enables faith-based employers to discriminate on the basis of sexual orientation or gender identity in a manner that 'conforms with the doctrines, beliefs or principles of the religion'⁸ or 'is reasonably necessary to avoid injury to the religious sensitivities of adherants of the religion.'⁹ Refusing to offer employment to a job applicant or dismissing an employee could be a significant cause of homelessness. Financial difficulties is the second most common reason for homelessness amongst LGBTIQ people.¹⁰

Many of the existing homelessness services operate under religious frameworks and laws that enable them to turn away people on the basis of their sexuality or gender identity. LGBTIQ people can be turned away from these services because of their identity, or are disinclined to access these services in the first instance because of the risk of that happening.

⁷ *Sex Discrimination Act 1984* s 4.

⁸ *Equal Opportunity Act 2010* s 82(2)(a).

⁹ *Equal Opportunity Act 2010* s 82(2)(b).

¹⁰ McNair et al, 'LGBTQ Homelessness: Risks, Resilience and Access to Services in Victoria' (Gay and Lesbian Foundation of Australia, 2017) 31.

When they do access these services, they can experience negative comments from youth workers or other service providers. As two people described:

I don't know how many Bible verses you get thrown at you... [with youth workers] continually arguing with me to the point that I'd be in tears... every single time I saw them... I was sinning, I was evil... It was all a phase I was going to grow out of.

The way you are is not the right way; you are sinning every time you do an act in your people's way. It's a sin. This is someone who is supposed to be helping homeless people and she's diving me into the freaking ground.¹¹

Again, the *Equal Opportunity Act* enables faith-based providers of homelessness services to discriminate on the basis of sexual orientation or gender identity. In a jurisdiction where “equality is not negotiable”, the Committee should recommend that the Victorian Parliament end discrimination by faith-based employers and providers of homelessness services by removing religious exemptions that allow for discrimination against LGBTIQ Victorians. This should include advocacy and the use of any Victorian Government powers to prevent any provisions being enacted by the Commonwealth Religious Discrimination Bill that would enable greater discrimination against LGBTIQ people by religious service-providers.

Recommendation 4: Section 82(2) of the *Equal Opportunity Act 2010* should be repealed. This would end discrimination by faith-based employers and providers of homelessness services (and other related and crucial social services) against LGBTIQ Victorians.

Whilst the *Equal Opportunity Act* prohibits discrimination in accommodation on the basis of sexual orientation and gender identity,¹² **40% of respondents to our LGBTIQ community survey reported that they had been discriminated against while renting or buying a house.** For LGBTIQ people, discrimination in the private rental sector is a common experience.¹³ As one person described:

Queerness and transness seem to be... very identifiable things that real estate agents identify as indicators that maybe you're not going to be the best tenant. So they'll put more pressure on you... [though] telling you to... mow your lawns and to keep the house a certain way, or making assumptions or judgments about your ability to meet the requirements of the lease. All of that stuff, I think, contributes to the extent to which you're able to hold on to a lease and whether or not your lease is going to be renewed.¹⁴

¹¹ Maberley and Coffey, 'Opening the Door? Exploratory Research into LGBT Young People's Access to Supported Accommodation in Queensland' (Queensland Youth Housing Coalition, 2005) 42-43.

¹² *Equal Opportunity Act 2010* ss 52-53.

¹³ McNair et al, 'LGBTQ Homelessness: Risks, Resilience and Access to Services in Victoria' (Gay and Lesbian Foundation of Australia, 2017) 26.

¹⁴ *Ibid* 29-30.

Turned away from private rentals, LGBTIQ people may be left homeless.

Recommendation 5: LGBTIQ inclusive training, information and guidelines should be developed for real estate professionals.

Family Violence

As has been highlighted in many submissions to this inquiry and the final report of the Royal Commission into Family Violence, family violence is one of the major causes of homelessness.

Of the limited research undertaken, LGBTIQ people experience violence at the same or higher than the wider population.¹⁵ There are two major ways family violence can drive LGBTIQ people into homelessness:

1. Through escaping intimate partner violence.
2. Through escaping family violence (which can be perpetrated by parents, siblings, children, extended and chosen family).

The Victorian Government claims to have implemented recommendation 169 of the Royal Commission into Family Violence to ensure accommodation and service providers can't discriminate against LGBTIQ Victorians. In 2018, members of a network of faith-based service providers made a public commitment to refrain from using the exemptions available under the *Equal Opportunity Act* to discriminate against LGBTIQ clients. Whilst very welcome, this commitment has no legal effect.

In 2018, the Victorian Government also committed to invest \$3 million towards targeting the root causes of homelessness for LGBTIQ Victorians, and ensuring existing providers deliver safe and LGBTIQ-inclusive services – although the status and outcomes of this initiative is unknown.

Many LGBTIQ people do not have access to refuges and emergency accommodation for family violence, or feel safe accessing the services that exist. Implementation of Rainbow Tick accreditation across all family violence services (recommendation 167 of the Royal Commission into Family Violence) has still not been achieved, missing the 31 December 2018 timeline set out in the Commission's report. The further development of appropriately funded LGBTIQ specialist services for homelessness and people experiencing family violence is needed.

Training and recruitment

Homelessness services need to be LGBTIQ friendly, and all staff working in homelessness services should be required to obtain cultural and LGBTIQ competency training.

¹⁵ Campo and Tayton, 'Intimate Partner Violence in Lesbian, Gay, Bisexual, Trans, Intersex and Queer Communities' (Australian Institute of Family Studies, 2015).

Service providers have identified a lack of LGBTIQ-specific training has led to a lack of knowledge regarding the specific needs of the community.¹⁶ The Final Report of the Gay and Lesbian Foundation of Australia LGBTQ Homelessness Research Project recommended that ‘ongoing LGBTIQ training should be mandatory for staff at all homelessness and housing services.’¹⁷ We support this recommendation, which is consistent with other reports into the issue.¹⁸

Recommendation 6: The Victorian Government should fund training and upskilling of homelessness workers to better equip frontline services to accommodate LGBTIQ people.

Recommendation 7: The Victorian Government should fund frontline services to recruiting specialist LGBTIQ homelessness officers.

Trans and gender diverse people

79% of trans and gender diverse respondents to our community survey have experienced homelessness in some form. Furthermore, there has been a rapid increase in trans and gender diverse people presenting to homelessness services in recent years.

McNair, Andrews and Wark highlight that ‘despite rising concern about the prevalence of trans and gender diverse (TGD) homelessness, at present there are no TGD-specific homelessness services in Victoria (and only one LGBTIQ specific service)’ – Family Access Network’s alsorts program – ‘nor have most homelessness services had any training in the provision of TGD-inclusive services.’¹⁹ In response to this, the researchers ‘sought to develop and trial a model of care within a mainstream homelessness service to support TGD people who are experiencing, or are at risk of homelessness.’²⁰

Recommendation 8: The Victorian Government should fund specialist emergency housing for trans and gender diverse people embedded within appropriate mainstream services, or fund homelessness services to undertake training based on the Trans and Gender Diverse Homelessness Pilot Project Model of Care.

LGBTIQ people with a disability

¹⁶ McNair et al, ‘LGBTIQ Homelessness: Risks, Resilience and Access to Services in Victoria’ (Gay and Lesbian Foundation of Australia, 2017) 57.

¹⁷ Ibid 60.

¹⁸ Maberley and Coffey, ‘Opening the Door? Exploratory Research into LGBT Young People’s Access to Supported Accommodation in Queensland’ (Queensland Youth Housing Coalition, 2005) 8; Twenty10, ‘It May Not be Fancy: Exploring the Service Needs of Homeless Gay, Lesbian, Bisexual and Transgender Young People’ (Commonwealth Department of Families, Community Services and Indigenous Affairs, 2007) 59; Oakley and Bletsas, ‘The Experiences of Being a Young LGBTIQ and Homeless in Australia: Re-thinking Policy and Practice’ (2018) 54(3) *Journal of Sociology* 392.

¹⁹ McNair, Andrews and Wark, ‘Developing a Model of Care to Support Trans and Gender Diverse People Experiencing Homelessness’ (Community Sector Banking, 2018) 5.

²⁰ Ibid.

27% respondents to our LGBTIQ community survey had a disability or impairment. Research shows that general health and mental health of LGBTIQ people is worse than than of the general population, and that LGBTIQ people are more likely to have a mental health condition or physical disability.²¹ Disabilities or impairments can affect access to housing, as well as employment and education.²²

Furthermore, as the submission from Dementia Australia states, ‘compared with the general population, people experiencing homelessness tend to have poorer health outcomes, exacerbated by poor access and underutilisation of health services... [including] poor mental health’ and physical health.²³

Under the *Equal Opportunity Act*, housing providers cannot discriminate against people on the basis of their disability,²⁴ which includes mental or psychological disorders, including through imposing unreasonable conditions that have the effect of disadvantaging people with a disability. However, some housing providers may not comply with the law.

Recommendation 9: The Victorian Government should work with the Commonwealth Government and National Disability Insurance Scheme to provide funding for public and emergency housing providers to ensure physical accessibility of their premises for those with disabilities or chronic illnesses.

LGBTIQ young people

Research suggests that LGBTIQ people are over-represented in the youth homelessness population.²⁵ Family conflict and rejection, particularly by parents, can be a motivating factor. As one person described:

*Because of my gender change even my father and siblings didn't accept me, they have assaulted me.*²⁶

However, a large amount of mainstream service providers do not have specific practices that assist with LGBTIQ young people's access to housing.²⁷

²¹ McNair et al, 'LGBTQ Homelessness: Risks, Resilience and Access to Services in Victoria' (Gay and Lesbian Foundation of Australia, 2017) 32-34.

²² Ibid 38.

²³ Dementia Australia, Submission to Legislative Council Legal and Social Issues Committee Inquiry into Homelessness in Victoria (January 2020) 4-5.

²⁴ *Equal Opportunity Act 2010* ss 52-53.

²⁵ McNair et al, 'LGBTQ Homelessness: Risks, Resilience and Access to Services in Victoria' (Gay and Lesbian Foundation of Australia, 2017) 58.

²⁶ Ibid 36.

²⁷ Maberley and Coffey, 'Opening the Door? Exploratory Research into LGBT Young People's Access to Supported Accommodation in Queensland' (Queensland Youth Housing Coalition, 2005) 26.

Recommendation 10: The Victorian Government should provide funding for services and spaces created especially for LGBTIQ youth experiencing or at risk of homelessness embedded within selected mainstream services.

LGBTIQ older people

Most of the research on LGBTIQ young people focusses on youth. Indeed, as the Old Colonists' Association of Victoria ('OCAV') point out in their submission, 'despite the growing number of older people who find themselves homeless, they are all too often invisible in the public policy domain',²⁸ as other submissions have concurred.²⁹ A recent survey has indicated that **17.5% of LGBTIQ older people are currently at risk of homelessness.**

Organisations like OCAV provide housing for older Victorians that are either homeless or vulnerably housed. Despite this, there is a need for increased public and social housing options for older people.³⁰ When entering retirement villages and homes, discrimination and forced "re-closeting" is a common experience amongst LGBTIQ older people. As one person described:

*[Being told] you're not allowed to talk about your sexuality in the nursing home... sent me back all those years ago to all these things that kept happening [that meant] you can't be who you are.*³¹

Recommendation 11: The Government should provide housing specifically for LGBTIQ elderly people embedded within selected mainstream services, or fund aged care services to achieve Rainbow Tick accreditation.

Public education campaign

In 2012, the then Minister for Mental Health launched a ground-breaking national campaign against homophobia, biphobia and transphobia, No To Homophobia, which included television advertisements, online resources and social media, to send the message that discrimination against LGBTIQ people is not acceptable and that those who experience it and witness it have official avenues of redress.

²⁸ Old Colonists' Association of Victoria, Submission to Legislative Council Legal and Social Issues Committee Inquiry into Homelessness in Victoria (January 2020) 1.

²⁹ Seniors Rights Victoria, Submission to Legislative Council Legal and Social Issues Committee Inquiry into Homelessness in Victoria (January 2020) 5.

³⁰ Ibid 7.

³¹ Duncan and Abboud, 'Elderly LGBTQI+ aged care residents say they're being forced "back into the closet"', SBS, 6 June 2019.

For LGBTIQ people experiencing homelessness, the stigma of being LGBTIQ can be compounded by what has been referred to as ‘homelessness stigma’.³²

The VGLRL calls for a public education campaign to reduce the stigma around homelessness and LGBTIQ people.

Recommendation 12: The Victorian Government should fund a No To Homophobia style public education and media campaign to reduce the stigma around homelessness, LGBTIQ people, and the intersection of belonging to both groups.

Support mechanisms

Switchboard Victoria offers telephone and web counselling referral and information services for LGBTIQ Victorians. A parallel service provider in New South Wales, Twenty10, provides phone support and transitional housing for young LGBTIQ people.

Unfortunately, phone and online support is not available 24 hours a day – operating 3pm to 12am. Additional funding to provide support to LGBTI people at all times would be an important step to supporting our communities.

Recommendation 13: The Victorian Government should ensure that Switchboard Victoria is adequately funded to provide LGBTIQ-specific mental health counselling that is accessible to LGBTI communities regardless of background, ability or income.

³² Squires, ‘One of the worst things about homelessness is the shame’, *The Age*, 28 May 2019.