

**Submission
No 56**

EQUALITY LEGISLATION AMENDMENT (LGBTIQA+) BILL 2023

Organisation: headspace National and Black Dog Institute

Date Received: 15 April 2024

15 April 2024

Mr Clayton Barr MP
Committee Chair, Committee on Community Services
NSW Parliament House
6 Macquarie Street
Sydney NSW 2000

Submitted via email to communityservices@parliament.nsw.gov.au.

Dear Mr Barr

Re: Committee on Community Services inquiry into the Equality Legislation Amendment (LGBTIQ+) Bill 2023.

We write this joint submission on behalf of two of Australia's leading youth mental health organisations, headspace National and the Black Dog Institute.

headspace is the National Youth Mental Health Foundation providing early intervention mental health services to 12-25 year olds. headspace has a network of 159 services across Australia, as well as online and phone supports. At the heart of all our services are young people, their needs, and the needs of those who support them.

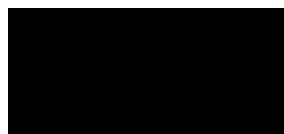
The Black Dog Institute is the only medical research institute in Australia that focuses on mental health across the lifespan, with a strong focus on the mental health of young people. Black Dog's translational research aims to improve mental health in Australia through providing gold-standard evidence to inform mental health policy and practice. With 6,388 participants across 134 schools, surveyed annually over six years, the Future Proofing study into adolescent mental health is now the largest nationally-representative study of its kind in Australia and among the most comprehensive longitudinal studies of adolescent mental health globally.

We welcome the opportunity to discuss any aspects of our submission with you further.

Yours sincerely



Jason Trethowan
Chief Executive Officer
headspace



Samuel Harvey
Executive Director and Chief Scientist
Black Dog Institute



headspace National and The Black Dog Institute – Joint Submission

Committee on Community Services inquiry into the Equality Legislation Amendment (LGBTIQA+) Bill 2023

Introduction

headspace National and Black Dog welcome the opportunity to provide a submission to Committee on Community Services inquiry into the Equality Legislation Amendment (LGBTIQA+) Bill 2023.

LGBTIQA+ young people are over-represented amongst headspace service users, relative to the general population; we support legislative amendments that aim to improve experiences for young people and their families, and eliminate discrimination.

For the Committee's consideration, this submission highlights: the proportion of LGBTIQA+ young people in our communities; prevalence of mental ill health amongst LGBTIQA+ young people; legislative changes that have the potential to positively impact young people and their families; and considerations for government as it progresses these amendments. Our submission includes insights from members of the headspace National Youth Reference Group and headspace National Family Reference Group, included in italics throughout.

Proportion of LGBTIQA+ young people in our communities

Black Dog's Future Proofing study found that 12.5 per cent of surveyed high school students identify as sexuality diverse (gay or lesbian, bisexual, pansexual, asexual or other), and 3.2 per cent identify as gender diverse (transgender, non-binary or other).¹ This is significantly higher than estimates of sexuality and gender diversity in the adult population.²

LGBTIQA+ young people and mental health

People identifying as members of the LGBTIQA+ community are at higher risk of mental ill health, self-harm and suicide.³ Young people accessing support from headspace who identify as LGBTIQA+ more often meet criteria for diagnosis of a specific mental health disorder and face more difficulties across key social and occupational domains than their non-LGBTIQA+ peers (e.g. relationship with family, engagement with work and study).^{4 5}

headspace data shows a steady increase in services provided to LGBTIQA+ young people over recent years. In 2022-23, LGBTIQA+ young people represented 29.9 per cent of the total number of young people serviced in headspace centres, and 34.7 per cent of all services provided. This compares with 24.2 per cent of service users and 28.9 per cent of activity in 2019-2020.⁶

¹ Werner-Seidler, A., Maston, K., Calear, A. L., Batterham, P. J., Larsen, M. E., Torok, M., O'Dea, B., Huckvale, K., Beames, J. R., Brown, L., Fujimoto, H., Bartholomew, A., Bal, D., Schweizer, S., Skinner, S. R., Steinbeck, K., Ratcliffe, J., Oei, J.-L., Venkatesh, S., ... Christensen, H. (2022). The Future Proofing Study: Design, methods and baseline characteristics of a prospective cohort study of the mental health of Australian adolescents. *International Journal of Methods in Psychiatric Research*, e1954. <https://doi.org/10.1002/mpr.1954>

² Wilson, T., Temple, J., Lyons, A. et al. (2020). *What is the size of Australia's sexual minority population?*. BMC Res Notes 13, 535. <https://doi.org/10.1186/s13104-020-05383-w>

³ Hill, A. O., Bourne, A., McNair, R., Carman, M. & Lyons, A. (2020). *Private Lives 3: The health and wellbeing of LGBTIQ people in Australia*. ARCSHS Monograph Series No. 122. Melbourne, Australia: Australian Research Centre in Sex, Health and Society, La Trobe University

⁴ headspace National. (2023). *LGBTIQA+ Young People at headspace: a deep dive into more recent data*. Unpublished.

⁵ Thomas, K. (2023). *Review of access to mental health services and clinical outcomes for LGBTIQA+ young people*. headspace National.

⁶ headspace National. (2023). headspace centre data.

LGBTIQA+ young people accessing headspace services report lower quality of life and higher psychological distress than other service users. headspace data shows:

- LGBTIQA+ young people are around 60 per cent more likely than other service users to have suicidal thoughts or behaviour during their episode of care
- suicidality is a concern for 37.5 per cent of gender diverse service users, and 35.1 per cent of LGBTIQA+ young people during their episode of care.

In the Future Proofing study, comparative findings reveal stark disparities in mental health between LGBTIQA+ students and their non-LGBTIQA+ peers:

- **Depression:** 43.5 per cent of sexuality diverse students and 58.9 per cent of gender diverse students report clinically significant symptoms of depression, compared with the student average of 15.1 per cent.
- **Anxiety:** 43.1 per cent of sexuality diverse students and 53.5 per cent of gender diverse students report clinically significant symptoms of anxiety, compared with the student average of 18.6 per cent.
- **Self-harm:** 50.8 per cent of LGBTIQA+ identifying students have engaged in self-harm, compared to 16.7 per cent of non-LGBTIQA+ identifying students.
- **Suicidal ideation:** 25.7 per cent of LGBTIQA+ identifying students have considered suicide in the last 12 months, compared to 6.4 per cent of non-LGBTIQA+ identifying students.⁷

“For my young person, being misgendered and presenting differently on the outside to how they feel on this inside have been the main sources of their negative mental state, leading to depression, anxiety, and avoidance behaviours.”

- Member of the headspace National Family Reference Group

LGBTIQA+ young people accessing headspace services are also more likely to:

- have co-occurring substance use and mental health issues
- experience struggles with housing. In 2022-23, 10.5 per cent of LGBTIQA+ young people accessing headspace centre services had accommodation issues (e.g. struggling to pay rent, major conflicts with other people in the house, concerns for personal safety), compared with 6.4 per cent of non-LGBTIQA+ young people.^{8 9}

LGBTIQA+ young people and discrimination

Legislation which protects the rights of all people is a critical step in setting expectations around fair and equal treatment, and helping to address the discrimination that LGBTIQA+ people regularly face.

The disproportionate number of LGBTIQA+ young people experiencing poorer mental health outcomes has been directly related to experiences of stigma, prejudice, discrimination and abuse on the basis of identifying as LGBTIQA+.¹⁰

LGBTIQA+ young people living in rural and regional areas face additional complexities due to higher levels of discrimination and fewer inclusive supports available to them. For LGBTIQA+ people living with a disability or multiple disabilities, experiences of discrimination and oppression are compounded by intersecting, marginalised experiences and social identities, leading to multiple minority stresses.¹¹

⁷ Werner-Seidler et al. (2022). The Future Proofing Study.

⁸ headspace National. (2023). *AOD Strategy Report*. (unpublished).

⁹ Hill, A., Bourne, A., McNair, R., Carman, M., Lyons, A. (2021). *Private Lives 3: The health and wellbeing of LGBTIQ people in Australia*. La Trobe. Accessed via <https://doi.org/10.26181/5f3380a0d048a>

¹⁰ LGBTIQ+ Health Australia. (2023). *Beyond Urgent: National LGBTIQ+ Mental Health and Suicide Prevention Strategy 2021 – 2026*. Accessed 12 January 2024, https://d3n8a8pro7vnmx.cloudfront.net/lgbtihealth/pages/849/attachments/original/1635726933/MHSP_PreventionStrategy_DIGIT_AL.pdf?1635726933

¹¹ McConnell, E.A., Janulis, P., Phillips, G., Truong, R., Birkett, M. (2018). Multiple Minority Stress and LGBT Community Resilience among Sexual Minority Men. *Psychology, Sexuality, Orientation, Gender Diversity*, 5, 1–12.

In 2022, one in five surveyed young people highlighted homophobic discrimination as an issue that urgently needs to be addressed. Those identifying as LGBTIQ+ were more likely to rank homophobic discrimination and transphobic discrimination in their top three issues that most urgently need addressing.¹²

Black Dog's Future Proofing study similarly found that LGBTIQ+ identifying students, on average, report feeling less safe in their school environment and report higher levels of bullying:

- **Bullying:** LGBTIQ+ identifying students reported being twice as likely to experience regular bullying compared to non-LGBTIQ+ identifying students (22.9%, compared with 10.1%).
- **School safety:** Only 34.7 per cent of LGBTIQ+ identifying students reported feeling 'always safe' in their schools, compared with 54.9 per cent in non-LGBTQIA+ identifying students.
- **Discrimination:** LGBTIQ+ students were 7 times more likely to report discrimination as their top concern, compared to cisgender-heterosexual students.¹³

"LGBTIQ+ individuals have to deal with stigma and harassment on a day to day basis...[we are] living in a constant state of uneasiness and exclusion is the norm. It becomes another challenge we have to learn to deal with. We're surviving not thriving. We need to fight discrimination in every form it takes, because every young person deserves the chance to thrive and be proud of who they are."

- Member of the headspace Youth National Reference Group

Provisions of the Bill relevant to young people

The NSW Equality (LGBTIQ+) Bill 2023 will help to address areas of current legislation that are discriminatory towards people who identify as members of the LGBTIQ+ community.

Key changes in the Bill that have potential to make a difference for young people in particular include:

1. Removing anti-discrimination exemptions which will protect students at religious schools from discrimination based on identifying as LGBTIQ+. Provisions in the changes also protect staff in these schools. Attending a school in which everyone is equal and having role models with whom they can feel connected can contribute to LGBTIQ+ young people feeling accepted and reduce feelings of shame, particularly in cases where family support is limited or non-existent.

"I remember when a bill passed a couple years in WA that would allow for LGBTQIA+ discrimination in religious schools...my friends and I, who are all queer, had to carry around this weight that people did not care for us and that our government didn't appreciate our existence."

"These amendments are extremely important and will make many LGBTQ+ feel more safe, accepted and the world more accessible for us."

"Young queer people need role models that are like them to show there is a life to be had while being an LGBTQ+ member."

"There could be a possibility that their teacher, the only person in the world who 'gets it', could vanish from their life at any moment."

- Members of the headspace Youth National Reference Group

"As a parent of a young person who identifies as gay and non-binary, I feel...these changes will go a long way to reducing feelings of shame, hopelessness, dehumanisation and frustration often felt by young people in this community as they strive to be recognised and accepted for who they are."

- Member of the headspace National Family Reference Group

¹² headspace National. (2022). *headspace National Youth Mental Health Survey Online Survey – 2022*. (unpublished).

¹³ Werner-Seidler et al. (2022). *The Future Proofing Study*.

2. Replacing the term “homosexuality” with “sexuality”, which recognises the many sexualities with which people can identify. headspace data indicates that most LGBTIQ+ young people accessing headspace centres identify as bisexual.
3. Allowing young transgender and gender diverse people to update their gender on government identification without having to undergo surgery. This will allow people to affirm their gender, avoiding a mismatch between state and commonwealth-issued identification documents and supporting the safety of young trans people.

Not all transgender and gender diverse people want to undergo surgical transition, which can be financially inaccessible for many, and instead choose other forms of transition (e.g. social and hormone therapy).¹⁴ Transgender and gender diverse people are more likely to experience absence of family support and stable employment, which can also be a barrier to surgical or medical transition.¹⁵

“Updating gender identification is incredibly valuable and affirming within a transgender and/or gender diverse person’s life. It is something I want but am unable to do as currently the government does not recognise non-binary identities. Being legally recognised as your own gender, not only affirms and provides validity to one’s identity and for others around them, but it also prevents misgendering, and passive outing.”

- Member of the headspace Youth National Reference Group

4. Allowing young people to make informed decisions about their own medical treatment including gender affirming care (e.g. puberty blockers). For example, allowing young people:
 - between the ages of 16 and 18 to consent to medical treatment
 - under 16 to consent to medical treatment with the consent of only one parent, or without parent consent in some circumstances, if they understand the risks and benefits of treatment.

In principle, we support this as it can provide young people with agency over their own bodies and is important in particular for transgender and gender diverse young people who are facing a puberty that does not align with their gender. However, we note that further research is needed in relation to the cognitive ability of young people under the age of 18 to provide full and informed consent without a parent.

“Allowing 16-18 year olds to consent to the care they want provides agency over one’s life and allows the young person to begin living their life as themselves and free from discomfort/pain sooner.”

- Member of the headspace Youth National Reference Group

“Allowing young people between the ages of 16-18 to consent to medical treatment, including gender affirming care, can be lifesaving. My young person was fortunate to receive this care following a diagnosis of gender dysphoria, around the time of puberty. Prior to that, their outlook was often grim, as they battled with their mental health and questioned whether living their life as someone they were not was a life worth living. The positive changes I have seen in my young person since receiving the care they needed have been remarkable, and as a parent, I can’t want for much more than this.”

- Member of the headspace National Family Reference Group

¹⁴ Surgeries and medical transition are expensive, ranging from around \$20,000 to over \$100,000 depending on the type of procedures. Health Direct. (2022). *Gender Affirming Surgery*. <https://www.healthdirect.gov.au/gender-affirming-surgery#:~:text=Gender%20affirming%20care%20might%20include,affirmation%2C%20with%20hormones%20or%20surgery.>

¹⁵ Strauss, P., Cook, A., Winter, S., Watson, V., Wright Toussaint, D. (2020). Associations between negative life experiences and the mental health of trans and gender diverse young people in Australia: findings from Trans Pathways. *Psychological Medicine*. 50, 808–817. <https://doi.org/10.1017/S0033291719000643>

5. Recognising rainbow families, which will ensure that school forms and medical forms provide the means to accurately reflect the diversity of different family types, including recognition of parents of children born through commercial surrogacy arrangements. For young people, validation and recognition of their family type and their parents can increase feelings of acceptance. It can also increase financial and emotional security in relation to inheritance and superannuation regulation.

“Providing legal recognition of rainbow families will only reassure children that they are loved and provide parents the ability to make care decisions for their children as legal parents/guardians.”

- Member of the headspace Youth National Reference Group

6. Ensuring that crimes motivated by hatred or prejudice towards transgender, gender diverse and intersex people are subject to the same sentencing as those based on race, religion or sexuality.

Ensuring safety and wellbeing for LGBTIQ+ young people

Parliament must ensure that the Bill is being debated in a respectful manner, being cognisant that the discourse itself can harm the mental health of LGBTIQ+ young people and their families. This was demonstrated in research following the national debates about marriage equality in 2017.¹⁶

Legislative change alone is not enough to end discrimination. Amendments to legislation provide a necessary foundation for progress towards equality for LGBTIQ+ people. However, the government must also take action to address discriminatory policies and practices, and promote inclusive practices and attitudes in order to eliminate discrimination.

Members of the headspace Youth National Reference Group, consulted during the preparation of this submission, highlight several areas that can improve safety and wellbeing of LGBTIQ+ young people, including:

- education and resources for a range of audiences, including families, workplaces and community services, aimed at providing guidance on how to support and build safe environments for LGBTIQ+ young people
- safe spaces for LGBTIQ+ young people in which young people can be supported and empowered. These could include opportunities to connect with LGBTIQ+ people in older generations and facilities that promote inclusion such as gender-neutral toilets
- support groups for families to connect and share experiences
- accommodation services for LGBTIQ+ young people

“Before coming out I was so incredibly fearful of being made homeless I couldn’t connect well to my parents. Should I have a service to provide accommodation if I needed it my stress would’ve been significantly lowered. My friend ran away from home at 15 to escape conversion therapy (which frequently uses abusive methods) and was homeless for four years.”

- Member of the headspace Youth National Reference Group

- expanding the capacity and reach of the LGBTIQ+ peer workforce

“Hearing the stories of peer workers with lived experience and receiving social support can be lifesaving in times of isolation and vulnerability, an experience too many LGBTIQ+ young people are quite familiar with.”

- Member of the headspace Youth National Reference Group

¹⁶ Verrelli, S., White, F.A., Harvey, L.J., & Pulciani, M.R. (2019). Minority stress, social support, and the mental health of lesbian, gay, and bisexual Australians during the Australian Marriage Law Postal Survey. *Australian Psychologist*. Volume 54, Issue 4, 336-346.

- more meaningful media representation to provide young people with opportunities to see themselves and their identities effectively and authentically represented.

We would also emphasise the importance of engaging directly with young people to explore other operational issues as the Bill progresses through Parliament, and to identify additional ways to support the safety and wellbeing of LGBTIQ+ young people. Engagement should recognise and represent the diversity of identities and experiences within the LGBTIQ+ community; they are not a homogeneous group but have unique stories, needs, strengths and intersectional experiences.