

**Sex And Gender Education's (SAGE, Australia) Response to Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020 introduced into NSW's Upper House By Mark Latham on Tuesday 25 Feb 2020.**

SAGE's response is submitted to the parliamentary committee to discuss the bill, NSW Premier Gladys Berejiklian, and all NSW State politicians and parties, August, 2020

SAGE campaigns for the rights and respectful dignity of sex and/or gender diverse (SGD) groups of people in Australia on the issues affecting their everyday lives, and distributes information relating to the quality of their lives. Sex and/or gender diverse people are made up from many differing groups including people who are intersex, transsexed, transsexual, transgendered, androgynous, without sex and gender identity, cross-dressers and people with sex and gender culturally-specific differences.

They are people who experience variations in physical presentation and social behaviour that is other than stereotypically male or female. Each group may have its own physical, psychological, social, legal and political issues that may not necessarily relate to any of the other groups. SAGE has been in existence since 2001 and has contributed to several changes in law and policy in Australia that benefit SGD groups of people.

This document is prepared for SAGE by Dr Tracie O'Keefe DCH, sexologist, post grad ADV Dip NSHAP, BHSc, ND. Tracie is a clinical psychotherapist, sex educator, researcher and therapist, mental health professional, member of PACFA College of Psychotherapy and the Australian Association of Sex Educators, Researchers and Therapists (ASSERT, NSW). She has been in private practice for 26 years and previously worked with sex and/or gender diverse people in the voluntary sector for 24 years.

## **Review**

The amendments in this bill seek to manipulate the NSW anti-discrimination protections to allow a greater range of discrimination by religious people, organisations, charities, corporations and any other bodies against people from sex and/or gender diverse groups.

The Nation Council of Social Workers (NCOSS) 2015) published a report: Beyond the myth of "pink privilege": Poverty, disadvantage and LGBTI people in NSW. It stated:

“LGBTI people experience higher levels of social disadvantage than the general population in Australia. In spite of consistent evidence to show that many, though not all, people in this diverse population gain qualifications, the odds are often stacked against them.”

The report recommended:

<https://sageaustralia.org/>

“Ensure that equality prevails for LGBTI people seeking access to services, and particularly those experiencing poverty and disadvantage, by removing religious exemptions contained in the Anti-Discrimination Act 1977 (NSW) and the Sex Discrimination Act 1984 (Cth).”

Jones, Hart, Carpenter, Ansari, Leonard and Lucke (2016) published an independent, self-reporting, study, stories and statistics of 272 self-identified intersex Australians with respondents reporting having attempted suicide (19%), others had self-harmed (26%), a number (42%) had thoughts about self-harming and a large number (60%) had thoughts about suicide directly relating to their sex variances. The average Australian suicide rate was far lower (3%).

The First Australian National Trans Mental Health Study (2013) provides an overview of trans mental health and reported:

“The study found that trans people experience very high levels of mental health problems, particularly depression and anxiety syndromes. At the time they completed the questionnaire, 43.7% of the sample were currently experiencing clinically relevant depressive symptoms; 28.8% met the criteria for a current major depressive syndrome; 5.4% for another depressive syndrome; 18.3% for a panic syndrome; and 16.9% for another anxiety syndrome. One in 5 participants (20.9%) reported thoughts of suicidal ideation or self-harm on at least half of the days in the 2 weeks preceding the survey.”

“Over half of participants (57.2%) had been diagnosed with depression at some point in their lives. Of those diagnosed with depression, 54.2% had been diagnosed in the last 12 months. Roughly 2 out of every 5 participants (39.9%) had been diagnosed with an anxiety disorder at some point, and of these, 62.1% had been diagnosed in the last 12 months.”

The Trans Pathway Survey (2017), with publication funded by the Western Australian Government, was an online survey of Australian trans youth and mental health carried out in 2016, published in 2017 and revised in 2018. The survey analysed reported experiences of 14-25-year-old’s accessing mental health and medical services and examined drivers of poor mental health. It included a wide range of people who identified as intersex, people who were unsure if they were intersex or not, transgender-identified persons to people who were gender-questioning or fluid. It included 859 sex and/or gender diverse people and 194 parents and guardians.

The study found 48.1% of sex and/or gender diverse respondents had attempted suicide at least once. This was 14.6 times greater than the general Australian populous. In addition, 74.6% reported having been diagnosed with depression, 72.2% with anxiety, 25.1% with Post-Traumatic Stress Disorder, 61% feeling isolated from mental health and medical services, 42% had reached out to service providers who they believed did not understand, respect or have previous experience with gender diverse people, 78.9% had issues with school tertiary education and university, 68.9% experienced discrimination, 68.9% reported a lack of family support, 22% had accommodation issues or homelessness, 89% experienced peer rejection and 74% experienced bullying.

## Discussion

The human rights and protection of people from sex and/or gender diverse groups must be preserved and even improved when attempting to change any NSW and Australian laws. Religious persecution of these groups in NSW has a long discriminatory history, inciting hatred, distain, social exclusion and violence. Amendments to the NSW discrimination laws that seek to remove discrimination protection of sex and/or gender diverse groups is never acceptable.

It is clear in the studies cited that sex and/or gender diverse groups are amongst the most vulnerable of the Australian population. They are disadvantaged in the workplace, education, housing, medical system and experience high level of social exclusion. One of the major drivers for their poor mental health is discrimination from all sectors and majorly religious persons and bodies.

Protection against discrimination of sex and/or gender diverse groups has been hard fought for over the past fifty years in the courts and parliaments of the land. During that time many have suffered.

NSW is not a religious state as Australia has no official religion. Permitting religious persecution and discrimination of other sectors of society elevates religious people and bodies above other members of society. No other persons or sectors would be allowed in law to discriminate in this way. It is a retrograde retraction into Victorian colonialism and granting religious people and bodies a “get out of jail free card”.

These proposed amendments of NSW laws would further contravene Australia's commitment to human rights as it is a signatory to the Universal Declaration of Human Rights which require us to treat each citizen equally regardless of sex and gender. The Department of Foreign Affairs and Trade (DFAT) 2020) states on its website:

“Australia is committed to a strong multilateral human rights system. We continue to support the independent mandate of the Office of the High Commissioner for Human Rights. We promote efforts to strengthen the Human Rights Council and the wider human rights system. As a member of the United Nations Human Rights Council for the 2018–2020 term, Australia is particularly focused on:

Equal human rights for LGBTI persons”

Finally, there is the further disturbing consequence of this amendment. In a true democracy there is a separation of church and state. The amendment blurs that line in that religious people and bodies would gain the power to challenge the state and dictate policy. The NSW and Federal Governments were voted in by the people and is beholden to all its people equally, not religion.

We recommend the NSW members of parliament strike this bill down.

## References

Australian Government, Department of Foreign Affairs and Trading. (2020). *Human rights*.

Retrieved from <https://dfat.gov.au/international-relations/themes/human-rights/Pages/human-rights.aspx>

Hyde, Z., Doherty, M., Tilley, P., McCaul, K., Rooney, R., & Jancey, J. (2013). The first

Australian national trans mental health study. *Curtin University of Technology*. Retrieved from [https://www.beyondblue.org.au/docs/default-source/research-project-files/bw0288\\_the-first-australian-national-trans-mental-health-study---summary-of-results.pdf?sfvrsn=2](https://www.beyondblue.org.au/docs/default-source/research-project-files/bw0288_the-first-australian-national-trans-mental-health-study---summary-of-results.pdf?sfvrsn=2)

Jones, T., Hart, B., Carpenter, M., Ansara, G., Leonard, W., & Lucke, J. (2017). *Intersex: Stories and statistics from Australia*. *Open Book Publishers*.

The Nation Council of Social Workers. (2015). *Beyond the myth of "pink privilege": Poverty, disadvantage and LGBTI people in NSW*. Retrieved from

[https://www.ncoss.org.au/sites/default/files/public/policy/LGBTIPovertyNCOSSLaunch\\_FINAL.pdf](https://www.ncoss.org.au/sites/default/files/public/policy/LGBTIPovertyNCOSSLaunch_FINAL.pdf)

<https://sageaustralia.org/>

Strauss, P., Cook, A., Winter, S., Watson, V., Wright Toussaint, D., & Lin, A. (2017). Trans Pathways: the mental health experiences and care pathways of trans young people. Summary of results. *Telethon Kids Institute*, Perth, Australia.