

**ATTACHMENT ABSM 1**

This is the attachment marked "**ABSM 1**" referred to in the joint witness statement of Anna Brown and Sean Mulcahy dated 28 July 2015.

Royal Commission into Family Violence  
PO Box 535  
Flinders Lane VIC 8009



To whom it may concern,

**Re: Royal Commission into Family Violence**

The Victorian Gay & Lesbian Rights Lobby (VGLRL) provides the following submission to the Royal Commission into Family Violence. This submission can be made public and we would be pleased to make ourselves available to the Commission at any stage to discuss the matters therein.

**1. About the VGLRL**

The VGLRL is a community based advocacy group that works towards equality, social justice and human rights for lesbian, gay, queer, bisexual and same sex attracted Victorians. We work with and for the community along with other non-profit organisations, health bodies and government representatives to create positive change in the area of human rights and policy development. In particular, the VGLRL works constructively, cooperatively and respectfully with transgender, bisexual, intersex and other organisations that support our mission and vision.

**2. The current law**

The meaning of ‘family violence’ is defined in section 5 of the *Family Violence Protection Act 2008* and includes ‘behaviour by a person towards a family member of that person if that behaviour is – physically or sexually abusive; or emotionally or psychologically abusive; or economically abusive; or threatening; or coercive; or any other way controlling or dominating, [which] causes that family member to feel fear for the safety or wellbeing of that family member or another person.’<sup>1</sup> Family violence is extended to include behaviour ‘that causes child to hear or witness, or otherwise be exposed to the effects of’ any of the listed behaviours.<sup>2</sup>

The definition of ‘family violence’ is expansive, non-exhaustive, and for the purposes of this review, gender neutral. The terms ‘domestic partner’ and ‘family member’ within the section are defined in such a way as to apply to the LGBTI community, as the definitions do not confine applicability of domestic violence to heterosexual couples or different-sex-parented families.<sup>3</sup>

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<sup>1</sup> *Family Violence Protection Act 2008* s 5(1)(a).

<sup>2</sup> *Family Violence Protection Act 2008* s 5(1)(b).

<sup>3</sup> *Family Violence Protection Act 2008* ss 8, 9.

The definition of ‘emotional or psychological abuse’ includes an example specific to the LGBTI community, namely threatening to ‘out’ a partner to family or friends.<sup>4</sup> Other examples could include:

- telling a partner they will lose custody of children as a result of being outed;
- using homophobia as a tool of control, for example through telling a partner that they will be unable to access police assistance or support from service delivery organisations because the system is homophobic;
- telling a partner they deserve it because they are LGBTI;
- telling a partner they are not a real lesbian, gay or bisexual;
- disclosing or threatening to disclose HIV status; and
- hiding, withholding or stopping a partner from taking medication or treatment (such as hormones or HIV medication).<sup>5</sup>

### **3. Statistics on the incidence of family violence in LGBTI communities in Victoria**

Research and data on LGBTI domestic violence and violence within same-sex relationships is limited. This is in part because ‘data collection at national and state levels omits sexuality indicators, making it very difficult for researchers and policy makers to consider evidence for, and design programs in response to, issues affecting GLBT populations.’<sup>6</sup> Instead, a large proportion of data comes from self-reporting.<sup>7</sup>

In a 2008 Victorian study of 390 LGBT Victorians conducted through an online survey (the *Coming Forward* survey), one third of respondents reported having been in a same sex partner relationship where they were subjected to abuse by their partner – 35% of women and 29% of men – including:

- emotional abuse (77.0%);
- psychological abuse (58.3%);
- being physically attacked or hit (56.7%);
- being regularly insulted (51.4%);

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<sup>4</sup> *Family Violence Protection Act 2008* s 7. ‘Outing’ is ‘when employers, colleagues, family or friends, not already aware of someone’s LGBTIQ status, are made aware that someone identifies as LGBTIQ, without their permission’: Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 8.

<sup>5</sup> Gay and Lesbian Rights Lobby NSW, Submission No 27 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 16 September 2011, 3.

<sup>6</sup> ACON, Submission No 46 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 23 September 2011, 6.

<sup>7</sup> Gay and Lesbian Rights Lobby NSW, Submission No 27 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 16 September 2011, 4.

- being injured or bruised (43.3%);
- being isolated from family or friends (38.3%);
- sexual abuse (25.8%); and
- being deprived of financial independence (23.3%).<sup>8</sup>

Nearly half of respondents who had experienced same sex partner abuse reported taking time off work as a consequence, 12.5% reported taking time off study, and 12 of the 58 who took time off work also took time off both.<sup>9</sup>

Nearly 62% of respondents who had been in a same sex relationship where they were subjected to abuse by their partner – 69% of women and 57% of men – reported being harassed by their ex-partner after the relationship ended. The nature of this harassment included:

- harassing phone calls (44.9%);
- harassing text messages (32.7%);
- stalking (32.7%); and
- harassing emails (32.1%).<sup>10</sup>

There is limited statistics on the incidence of same sex partner abuse for bisexual, transgender and intersex individuals. However, domestic violence rates are higher among transgender and intersex people, with one report finding ‘that 61.8% of transgender males and 42.9% of intersex females reported having been abused in a relationship.’ It is unclear whether these incidents of violence were from same-sex relationships.<sup>11</sup>

The incidence of abuse in same sex relationships is similar to reported rates in heterosexual relationships.<sup>12</sup> However, intimate partner violence within LGBTI relationships often manifests in ways different to heterosexual relationships, as discussed above. Furthermore, although the impact upon LGBTI victims of domestic violence is similar to that of heterosexual or cisgendered victims, LGBTI people’s

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<sup>8</sup> William Leonard et al, *Coming forward: The underreporting of heterosexist violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) 45.

<sup>9</sup> William Leonard et al, *Coming forward: The underreporting of heterosexist violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) 46.

<sup>10</sup> William Leonard et al, *Coming forward: The underreporting of heterosexist violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) 46.

<sup>11</sup> ACON, Submission No 46 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 23 September 2011, 3, citing Marian Pitts et al, *Private lives: A report on the health and wellbeing of GLBTI Australians* (Australian Research Centre in Sex, Health and Society, 2006) 31.

<sup>12</sup> William Leonard et al, *Coming forward: The underreporting of heterosexist violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) iv.

experiences are ‘exacerbated by homophobia, transphobia, heterocentrism and the isolation that many GLBT people experience.’<sup>13</sup>

#### **4. Barriers that prevent LGBTI people from engaging with or benefiting from family violence services and improvements to overcome these barriers**

Stigma still surrounds domestic violence in LGBTI relationships, and LGBTI communities are less likely to report, seek support, or identify experiences of domestic violence and abuse, at least in part because of a fear of ‘outing’, gender stereotypes, and perceived and actual discrimination and harassment.<sup>14</sup>

Further government-funded research is needed to better understand the social and psychological causes of violence in LGBTI relationships. This understanding is necessary as a foundation to ensure appropriate support services, public awareness-raising campaigns and programs for perpetrators are formulated and implemented.<sup>15</sup>

##### ***(a) Homophobia and discrimination***

A recent survey founded that found that 53.5% of female and 67.1% of male respondents in LGBTI relationships did not seek any form of assistance when exercising family violence.<sup>16</sup> Barriers to accessing assistance often arise from fears of homophobia,<sup>17</sup> a fear being outed,<sup>18</sup> or a fear of discrimination due to systemic homophobia.

##### ***(i) Access to mainstream services***

Mainstream services pose barriers for LGBTI victims because LGBTI individuals experience discrimination, homophobia and transphobia regularly, creating apprehension and fear at the prospect of utilising mainstream services.<sup>19</sup> The lack of appropriate services serves as a significant barrier to individuals engaging with or benefitting from domestic violence services. Lack of service provider awareness, or service provider policies and procedures, in order to identify and respond to same-sex domestic violence also poses a barrier.<sup>20</sup> Another factor that discourages LGBTI

<sup>13</sup> ACON, Submission No 46 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 23 September 2011, 3.

<sup>14</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 8.

<sup>15</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 11; William Leonard et al, *Coming forward: The underreporting of heterosexual violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) 66.

<sup>16</sup> Janine Farrell & Somali Cerise, *Fair’s Fair – A Snapshot of Violence and Abuse in Sydney LGBT Relationships* (ACON, 2008) 15.

<sup>17</sup> Gay and Lesbian Rights Lobby NSW, Submission No 27 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 16 September 2011, 5.

<sup>18</sup> William Leonard et al, *Coming forward: The underreporting of heterosexual violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) 48.

<sup>19</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 12.

<sup>20</sup> Gay and Lesbian Rights Lobby NSW, Submission No 27 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 16 September 2011, 5.

people from reporting family violence is previous experiences of homophobia from service providers themselves following attempts to report or seek assistance after same sex partner abuse or heterosexist violence.<sup>21</sup> The homophobia of service providers may further compound the experience of trauma and serve as a disincentive to report or seek assistance in the future.<sup>22</sup>

Effective law and policy may enable individuals to escape domestic violence, by ensuring services are available, accessible, well-resourced and sensitive to the needs of vulnerable groups. Effective support services to address domestic violence should extend to the police, judicial and legal services, health services, psychological social support, housing and social welfare. Mainstream services often do not have the requisite level of understanding of and sensitivity to LGBTI individuals' needs, and the few LGBTI-specific domestic violence support services existing are fragmented, have limited funding and are limited or non-existent in rural and remote areas.<sup>23</sup>

Capacity building is needed to address the failures of mainstream services to deal with LGBTI individuals. This would involve developing inclusive policies by: including sexual orientation and gender identity in anti-discrimination, social inclusion and diversity policies within agencies servicing victims of violence and abuse; developing guidelines and processes of service accreditation in consultation with LGBTI organisations; providing government-funded LGBTI-sensitivity training, resources and referrals in consultation with LGBTI organisations and for all staff; and having obvious signs of acceptance of LGBTI individuals.<sup>24</sup>

The development of LGBTI specialist services is also strongly recommended.<sup>25</sup>

*(ii) Treatment by police*

Before seeking assistance from police or services, LGBTI people 'tend to access support in relation to domestic violence primarily from friends and family members' and 'only one in ten' report experiences of intimate partner abuse to the police.<sup>26</sup>

More than half of the responses to the *Coming Forward* survey cited homophobia and heterosexism as a barrier to reporting specifically referred to difficulties with police. A large portion of responses cited fear (of 'hetero male ridicule', of 'having my gender history made (more) public', of 'harassment/misunderstanding/ignorance', of police themselves, of 'being outed to parents', of '[w]alking into a police station, not

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<sup>21</sup> William Leonard et al, *Coming forward: The underreporting of heterosexist violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) 58.

<sup>22</sup> William Leonard et al, *Coming forward: The underreporting of heterosexist violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) 59.

<sup>23</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 12.

<sup>24</sup> William Leonard et al, *Coming forward: The underreporting of heterosexist violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) 64.

<sup>25</sup> William Leonard et al, *Coming forward: The underreporting of heterosexist violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) 65.

<sup>26</sup> ACON, Submission No 46 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 23 September 2011, 4-5.

knowing what kind of reception you would get') as a barrier to reporting.<sup>27</sup> Almost all respondents provided written responses that identified barriers to reporting or seeking assistance for same sex partner (as well as heterosexist) abuse.<sup>28</sup> The most common barrier to reporting or seeking assistance was a belief that the crimes against the LGBTI community are not taken seriously, linking this back to an indifference or trivialisation of LGBTI individuals' needs in community attitudes, service provision and attitudes of individual service providers.<sup>29</sup> A similar survey found that 16.5% of respondents had experienced unfair treatment by police and 7.8% experienced a lack of response or investigation following reporting to police.<sup>30</sup> Because of a perception that reporting may lead to further traumatisation due to police not taking claims seriously, many LGBTI victims of domestic violence are reluctant to report.<sup>31</sup>

One quarter of respondents to the *Coming Forward* survey reported that a knowledge that they would be taken seriously would increase their likelihood of reporting or seeking assistance, and this assurance could be created through a greater social acceptance and recognition of LGBTI individuals, evidence of successful prosecutions and follow-ups after reporting, and provision of LGBTI-sensitive resources, information and services.<sup>32</sup> Other respondents suggested improved and more flexible methods of reporting would increase their likelihood of reporting and seeking assistance, including reporting through a third-party, web-based reporting and information provision for those who do not necessarily wish to take further action, impartial reporting bodies separate to police, community counselling that could delegate to police, and assurances of confidentiality by police and service providers.<sup>33</sup>

Other recommended changes include developing communications to raise awareness of the GLLOs and encourage reporting; increasing the presence and access to GLLOs; developing diversity and LGBTI-sensitivity training for all police (not merely GLLOs); and developing police information and referral protocols for victims of violence and abuse in collaboration with LGBTI organisations and accredited mainstream services.<sup>34</sup>

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<sup>27</sup> William Leonard et al, *Coming forward: The underreporting of heterosexist violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) 59.

<sup>28</sup> William Leonard et al, *Coming forward: The underreporting of heterosexist violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) 57.

<sup>29</sup> William Leonard et al, *Coming forward: The underreporting of heterosexist violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) 57-58.

<sup>30</sup> Inner City Legal Centre, *Outing Injustice: Understanding the legal needs of the lesbian, gay, bisexual, transgender and intersex communities in New South Wales* (ICLC, 2011) 33. See also Samantha Jeffries & Matthew Ball, 'Male Same Sex Intimate Partner Violence: A Descriptive Review and Call for Further Research' (2008) 15(1) *Murdoch University Electronic Journal of Law*, 134, 156-169.

<sup>31</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 13.

<sup>32</sup> William Leonard et al, *Coming forward: The underreporting of heterosexist violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) 60.

<sup>33</sup> William Leonard et al, *Coming forward: The underreporting of heterosexist violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) 62.

<sup>34</sup> William Leonard et al, *Coming forward: The underreporting of heterosexist violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) 65.

*(iii) Accessing rural and regional services*

As discussed above, specialised services for LGBTI victims of family violence are lacking and, in some communities, non-existent. This is especially so in rural and remote areas.<sup>35</sup> The domestic violence services available in rural and remote communities are limited, and LGBTI-specific services may be non-existent except by telephone.<sup>36</sup> Further, in rural and remote areas, there may be higher levels of discrimination, homophobia and transphobia, and therefore a greater likelihood that LGBTI individuals are still ‘in the closet’ and fearful that seeking help for same sex partner abuse may ‘out’ them.<sup>37</sup> This may itself cause greater isolation, abuse and anxiety.<sup>38</sup> Furthermore, ‘even if people are out, it can be difficult to leave a partner because they are either not believed, the perpetrator may have significant standing in a small GLBTI community or there may be no option for support.’<sup>39</sup> Not getting the requisite help, and remaining in abusive relationships because of a lack of professional services being utilised, would itself exacerbate the effects of same sex partner violence.

Providing appropriate telephone services including counselling, legal advice and support may effectively address the barriers faced by rural and remote LGBTI communities.<sup>40</sup>

*(iv) Access to services by religious providers*

Also compounding the effects of domestic violence on the lives of LGBTI victims is the faith based sanctions, discrimination and violence they are confronted with from outside their communities.<sup>41</sup> In part due to the increasing contacting out of government services, there is a wide range of services delivered by faith-based organisations, including emergency housing for victims of family violence. The *Equal Opportunity Act 2010* contains an exception, allowing organisations to discriminate on the basis of a person’s ‘religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity if the discrimination is reasonably necessary for the [organisation] to *comply* with the *doctrines, beliefs or principles of their religion*.’<sup>42</sup> The discrimination permitted by religious service

<sup>35</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 15.

<sup>36</sup> Gay and Lesbian Rights Lobby NSW, Submission No 27 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 16 September 2011, 5.

<sup>37</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 15. See also Bianca Filleborn, *Sexual Violence and Gay, Lesbian, Bisexual, Trans, Intersex, and Queer Communities* (Australian Centre for the Study of Sexual Assault, 2008) 9.

<sup>38</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 15.

<sup>39</sup> ACON, Submission No 46 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 23 September 2011, 8.

<sup>40</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 15.

<sup>41</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 10.

<sup>42</sup> *Equal Opportunity Act 2010* s 84 (emphasis added).



providers is extraordinarily broad, especially in circumstances where many such organisations receive financial support from the government.

In the Senate Legal and Constitutional Affairs Legislation Committee's Report on the Exposure Draft to the Human Rights and Anti-Discrimination Bill 2012 several commentators made many pertinent recommendations and comments regarding the removal or limitation of the religious exemption sections:

- UnitingJustice Australia did not support broad exceptions for religious organisations, except in relation to the ordination or appointment of religious leaders.<sup>43</sup>
- The Human Rights Council of Australia contended that 'the only attribute that is distinguishable logically for religious purposes is religion' and recommended that religious exceptions apply only to the attribute of 'religion'<sup>44</sup> and also stated that 'any religious exception [should] not apply to any activity which is partially or wholly funded by public funds.'<sup>45</sup>
- Dr Koonin from the New South Wales Gay and Lesbian Rights Lobby argued that a clear distinction should be drawn between an organisation's religious functions and other services it provides on behalf of the government.<sup>46</sup>

The Senate Committee recommended 'the Draft Bill be amended to remove exceptions allowing religious organisations to discriminate against individuals in the provision of services, where the discrimination would otherwise be unlawful... [and] the Australian Government should develop specific amendments to implement this recommendation, using the approach taken in the Tasmanian *Anti-Discrimination Act 1998* as a model.'<sup>47</sup> The *Anti-Discrimination Act 1998* (Tas) contains exceptions for religious organisations that extend only to 'the protected grounds of "religious belief of affiliation" and "religious activity"', and not to other attributes such as "sexual orientation" or "gender identity".<sup>48</sup> The recommendation made by the Senate Committee relates to federal legislation, but the VGLRL believe a similar approach should be adopted in relation to the *Equal Opportunity Act 2010* (Vic).

The VGLRL recommend that the broad exemption for religious bodies in the Act be removed in order to prevent harmful discrimination and remove barriers to accessing critical services for LGBTI people who are victims of family violence. In addition, the VGLRL recommend that:

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<sup>43</sup> Senate Standing Committee on Legal and Constitutional Affairs, Parliament of Australia, *Report on the Exposure Draft to the Human Rights and Anti-Discrimination Bill 2012* (2013) 58 [5.25].

<sup>44</sup> Senate Standing Committee on Legal and Constitutional Affairs, Parliament of Australia, *Report on the Exposure Draft to the Human Rights and Anti-Discrimination Bill 2012* (2013) 59 [5.28].

<sup>45</sup> Senate Standing Committee on Legal and Constitutional Affairs, Parliament of Australia, *Report on the Exposure Draft to the Human Rights and Anti-Discrimination Bill 2012* (2013) 66 [5.50].

<sup>46</sup> Senate Standing Committee on Legal and Constitutional Affairs, Parliament of Australia, *Report on the Exposure Draft to the Human Rights and Anti-Discrimination Bill 2012* (2013) 66 [5.51].

<sup>47</sup> Senate Standing Committee on Legal and Constitutional Affairs, Parliament of Australia, *Report on the Exposure Draft to the Human Rights and Anti-Discrimination Bill 2012* (2013) 97 [7.80].

<sup>48</sup> Senate Standing Committee on Legal and Constitutional Affairs, Parliament of Australia, *Report on the Exposure Draft to the Human Rights and Anti-Discrimination Bill 2012* (2013) 68 [5.56].

- procedures and guidelines be introduced for government tendering that require non-discrimination (regardless of religious beliefs) as a condition of the contract; and
- amendments be introduced to allow for claims to be able to be made against the Department that contracted out the service to the faith based service provider, even if the service provider seeks to rely on the defence available for religious bodies.

(v) *Discrimination on the basis of family violence*

Many people lose their jobs because of circumstances outside of their control caused by family violence. For example, people have reported being dismissed because: their estranged partner telephoned them constantly at work; they had to take time off work to report property damage and stalking to the police, attend intervention order proceedings and ensure their child's safety; and their employer refused to make adjustments to enable compliance with an intervention order.

Favourable consideration should be given to the introduction in the *Equal Opportunity Act 2010* of a new ground of discrimination on the basis of family violence. Family violence should be defined with reference to section 5 of the *Family Violence Protection Act 2008* and should be gender neutral.<sup>49</sup>

(b) *Gender and heteronormativity*

The majority of intimate partner violence discourse is constructed according to gendered assumptions and heteronormativity.<sup>50</sup> Moreover, 'misconceptions exist which suggest that those who perpetrate domestic violence must be men, or 'butches' and those who are victims of domestic violence must be women or 'femmes', essentially emulating assumptions about domestic violence in heterosexual relationships.'<sup>51</sup> These 'misconceptions contribute to the hesitancy of people in same-sex relationships disclosing family violence and mask the reality of same-sex

<sup>49</sup> Australian Human Rights Commission, Submission to Attorney-General's Department, Commonwealth of Australia, *Consolidation of Commonwealth Discrimination Law: Discussion Paper*, 23 January 2012, [42].

<sup>50</sup> Samantha Jeffries & Matthew Ball, 'Male Same Sex Intimate Partner Violence: A Descriptive Review and Call for Further Research' (2008) 15(1) *Murdoch University Electronic Journal of Law*, 134; Betsi Little & Cheryl Terrance, 'Perceptions of Domestic Violence in Lesbian Relationships: Stereotypes and Gender Role Expectations' (2010) 57(3) *Journal of Homosexuality* 429; Kierrynn Davis & Nel Glass, 'Reframing the Heteronormative Constructions of Lesbian Partner Violence – An Australian Case Study' and Maurice Kwong-Lai Poon, 'Beyond Good and Evil: The Social Construction of Violence in Intimate Gay Relationships' in Janice Ristock (ed), *Intimate Partner Violence in LGBTQ Lives* (Routledge, 2010); Sheila Seelau & Eric Seelua, 'Gender-Role Stereotypes and Perceptions of Heterosexual, Gay and Lesbian Domestic Violence' (2005) 20(6) *Journal of Family Violence*, 363; Matthew Ball & Sharon Hayes, 'Same-Sex Intimate Partner Violence; Exploring Parameters' in Burkhard Scherer (ed), *Queering Paradigms* (Peter Lang, 2009).

<sup>51</sup> Gay and Lesbian Rights Lobby NSW, Submission No 27 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 16 September 2011, 5. See also Betsi Little & Cheryl Terrance, 'Perceptions of Domestic Violence in Lesbian Relationships: Stereotypes and Gender Role Expectations' (2010) 57(3) *Journal of Homosexuality* 429, 431.

domestic violence’ and also ‘fail to account for the complexities arising in same-sex relationships.’<sup>52</sup>

*(i) Invisibility in research and awareness campaigns*

Current awareness campaigns regarding domestic violence portray a gendered, heteronormative vision of domestic violence as men’s violence against women, erasing the experience of domestic violence within LGBTI relationships.<sup>53</sup> This results in LGBTI groups being rendered invisible in the media campaigns, potentially meaning some people in abusive relationships will not recognise it as such and therefore may not seek help from police, lawyers and support services.<sup>54</sup> The campaign launched in 2007, ‘To Violence Against Women, Australia Says No’, reflects the binary subject positions of male perpetrators and female victims.<sup>55</sup> The attachment to such a gendered construction and the fixation of positions (men as violent and women as passive) contributes to the reluctance of many victims of LGBTI intimate partner violence to seek support, or even to identify their situation as family violence.<sup>56</sup> Such attachment to a heterosexual model of family violence has steered government research funding policy decisions in Australia, and thus excluded awareness or discussion of LGBTI family violence.

One in seven respondents to the *Coming Forward* survey reported that social change would increase their likelihood of reporting or seeking assistance, including mainstream media campaigns against heterosexism and homophobia.<sup>57</sup> The government should fund inclusive anti-domestic violence campaigns and particularly early intervention that targets young people through school programs and social media in order to promote healthy attitudes about relationships for LGBTI individuals. School programs that tackle homophobia, such as the ‘Proud Schools’ program, and the ‘Stand Up’ campaign encouraging LGBTI communities act when noticing signs of domestic violence, are good examples. Such campaigns should specifically target LGBTI communities and provide information on the nature of domestic violence in LGBTI communities, support, counselling, and referral services.<sup>58</sup> The ‘inclusion of issues relating to sexuality, gender, intersex and

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<sup>52</sup> Gay and Lesbian Rights Lobby NSW, Submission No 27 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 16 September 2011, 5.

<sup>53</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 11.

<sup>54</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 19.

<sup>55</sup> Matthew Ball & Sharon Hayes, ‘Same-Sex Intimate Partner Violence; Exploring Parameters’ in Burkhard Scherer (ed), *Queering Paradigms* (Peter Lang, 2009) 164.

<sup>56</sup> Matthew Ball & Sharon Hayes, ‘Same-Sex Intimate Partner Violence; Exploring Parameters’ in Burkhard Scherer (ed), *Queering Paradigms* (Peter Lang, 2009) 171.

<sup>57</sup> William Leonard et al, *Coming forward: The underreporting of heterosexual violence and same sex partner abuse in Victoria* (Australian Research Centre in Sex, Health and Society, 2008) 61.

<sup>58</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 19.

non-heterosexual relationships in mainstream domestic violence and healthy relationships campaigns' is also beneficial.<sup>59</sup>

*(ii) Heteronormativity in perpetrator programs*

Heteronormativity and the 'female victim-male perpetrator' standard within perpetrator programs also serve as a barrier to access to support services.<sup>60</sup> There is lack of referral options for female perpetrators and male victims within mainstream services.<sup>61</sup> Furthermore, 'there are currently no funded programs, at the state or national level, appropriate for female perpetrators of domestic violence. Additionally there are very few appropriate programs for male victims of domestic violence. Currently funding is targeted at heterosexual male behaviour change which is inappropriate in addressing domestic violence in LGBTI relationships.'<sup>62</sup>

Safe and appropriate perpetrator programs should be developed for LGBTI perpetrators that address the specific nature of these relationships. Furthermore, service providers should change the terminology used in mainstream behavior change programs to ensure inclusivity, recognise the differing needs of gay, bisexual, transgender and intersex men, and ensure the safety of LGBTI participants.<sup>63</sup>

*(iii) Gendered services and emergency housing accommodation*

LGBTI victims of domestic violence may have difficulty accessing safe and appropriate emergency and long term accommodation, with limited, if any, appropriate services for intersex people, gender diverse people and gay, bisexual or transgender men, while transgender women may have difficulties accessing accommodation in emergency housing for women if they have not had gender reassignment surgery.<sup>64</sup> The VGLRL is unaware of any emergency housing accommodation for men and there is also reported difficulty accessing domestic violence refuges by lesbians and transgender women.<sup>65</sup> This forces them to sleep rough, rely on family or friends, pay for hostels or hotels, or approach homeless shelters which may be unsafe for LGBTI individuals. Young LGBTI individuals escaping family or partner violence are in particular need of housing services as they are more vulnerable to becoming homeless and are disproportionately represented in

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<sup>59</sup> ACON, Submission No 46 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 23 September 2011, 4.

<sup>60</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 20.

<sup>61</sup> Gay and Lesbian Rights Lobby NSW, Submission No 27 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 16 September 2011, 5.

<sup>62</sup> ACON, Submission No 46 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 23 September 2011, 7.

<sup>63</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 20.

<sup>64</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 14.

<sup>65</sup> Gay and Lesbian Rights Lobby NSW, Submission No 27 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 16 September 2011, 5.

homeless populations.<sup>66</sup> They are also more inclined to sleep rough because of a fear of facing discrimination, homophobia and violence at homeless shelters.<sup>67</sup>


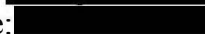
The *Equal Opportunity Act* contains an exception, allowing persons who provide accommodation for the purpose of welfare, to discriminate against persons of a 'particular sex, age, race or religious belief if the other person is not of that sex, age, race or religious belief.'<sup>68</sup> This may prove problematic for persons from the LGBTI community, many of whom do not identify within the traditional gender binary. They may be excluded from accessing services (for example, women's shelters) on the basis that they are not recognised by these service providers as being of the female sex.

Consideration should be given to appropriate steps to address this barrier, such as improving access to emergency accommodation for LGBTIQ individuals escaping domestic and family violence, particularly for transgender women, gay, bisexual, and transgender men, intersex individuals and gender diverse individuals.<sup>69</sup> The legislative problem can be addressed by an expansion of the definition of 'gender identity' and an inclusion of a definition of 'sex' and 'intersex' beyond the binary of male/female. Providing a definition of 'sex' and 'intersex' and a broader definition of 'gender identity' will protect those who hope to access welfare services and emergency housing.


We thank the Commission for their time in reviewing this submission and we would be pleased to make ourselves available to the Commission at any stage to address further questions in relation to these submissions.

Yours sincerely,



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<sup>66</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 14.

<sup>67</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 15.

<sup>68</sup> *Equal Opportunity Act 2010* (Vic) s 60.

<sup>69</sup> Inner City Legal Centre, Submission No 116 to Finance and Public Administration References Committee, Parliament of Australia, *Inquiry into Domestic Violence in Australia*, 11 August 2014, 15.