



## **NSW Equality Bill**

**A submission prepared by representatives of the Child Wise  
Youth Advisory Board**

**28 June 2022**



**CHILD WISE**

## Background

We are representatives of the Child Wise Youth Advisory Board and we are writing in support of the proposed Equality Bill in NSW, and to contribute our views and ideas to its development.

At Child Wise, our vision is a world in which children and young people are safe from harm – a world where societies, systems and institutions seek, include and respond to our voices. Child Wise works with public, private and not-for-profit organisations to help them establish child safe environments and culture. The Youth Advisory Board is a key part of Child Wise. Comprising 12 young people from across the continent, the role of the Youth Advisory Board is to represent the diverse voices of children and young people, ensure the issues that are important to children and young people are front and centre in all that Child Wise does, and to advocate for inclusion and equity.

As representatives of the Youth Advisory Board, we welcome the opportunity to contribute our views to this important Bill. We have experience in advocating for equity and inclusion. We have lived experience of organisations which have not been safe, inclusive or accessible. Some of us are LGBTQIA+ and some of us are allies. All of us are committed to a world where all children and young people can be and feel safe anywhere they spend time, and where LGBTQIA+ identities are celebrated and more visible.

As young people we have experienced all too often institutions, governments and adults in general not taking our safety seriously. We therefore know that young people are disproportionately impacted when political parties attempt to introduce legislation which erodes rights. As such, we are strong advocates for the voices of young people to be included in public dialogue about ideas such as the Equality Bill. We are also strong advocates for diversity and believe that the broadest possible range of voices should band together to confront homophobia and transphobia. When multiple voices aren't engaged, there is a risk that only dominant powerful voices are heard, and this risks discrimination, exclusion and stigma.

## Why we think this Bill is Essential

As young people who care about social justice not just in Australia, but globally, we are acutely aware of oppression around the world and understand how easily progress and rights can be rolled backwards. We understand the need to ensure protections for LGBTQIA+ people are established proactively, so that energy can be put into progress rather than having to react to and defend against attacks on LGBTQIA+ people's rights.

We lived through the 2017 debates about marriage equality and witnessed how LGBTQIA+ identities were often publicly debated without respect or humanity. In the lead up to the recent election, we once again were traumatised to see and experience trans identities dehumanised and used as a political football. And it was only recently that in NSW we were confronted with the homophobia and transphobia of One Nation's Education (Parental Rights) Bill. We experienced or witnessed firsthand the impact this political discourse had on people's mental health. Some of us experienced homophobia and transphobia in school from students and teachers. These experiences of homophobia and transphobia have fueled our commitment to advocacy. We never want to return to such a time where identities are debated and voted upon. We must start to focus on proactively creating legislation that safeguards LGBTQIA+ people's rights and freedoms.

## How we think this Bill should be developed and implemented

We are strong advocates for the meaningful inclusion of those most impacted by the legislation, and by the lack of legislative protections that have existed to date. Young people with lived experience of homophobia and transphobia are often marginalised. We see this Bill as an opportunity to centre lived experience and engage LGBTQIA+ young people in its development, and in implementing policy that flows from this legislation.

## What Should the Bill Include?

### Address Intersectional Oppression

We have grown up impacted by the institution of a government built on genocide and colonialism, and continue to witness the inequality and violence this causes. Governments must now focus on creating legislation that promotes equality and safeguards rights. Whilst we appreciate the focus of the Equality Bill is about LGBTQIA+ residents of NSW, we believe there is an important opportunity to recognise the intersections of homophobia, transphobia and racism, ableism, and misogyny.

For example, we know that racism has led to Aboriginal and Torres Strait Islander young people being over-represented in out of home care and youth detention centres. Therefore LGBTQIA+ Aboriginal and Torres Strait Islander young people are likely to be exposed to institutional homophobia and transphobia at much higher rates. We also know that many disabled young people need to access health services more frequently than their non-disabled counterparts. As such, disabled LGBTQIA+ children and young people are at significant risk of experiencing institutional homophobia and transphobia. These are examples of intersectional oppression we believe legislation such as the Equality Bill must help to address.

### Bureaucratic Barriers and Institutional Threats to Identity

Bureaucratic barriers continue to pose significant threats to identity, health and wellbeing. Currently in NSW, in order for trans and gender diverse people to update the gender marker on their birth certificate they are required to have had what the current legislation calls a 'sex affirmation procedure'. This means that in order to have a birth certificate which corresponds to their affirmed gender, trans people require medical procedures that they may not want or cannot access. There are also still far too many barriers to accessing trans-affirming healthcare, including a lack of safe, knowledgeable professionals and significant challenges for people living in regional and rural areas.

These systemic barriers present daily obstacles for young people including accessing Working with Children Checks and Centrelink using affirmed names and gender, which can have massive impacts on financial stability, housing, health and wellbeing.

Below is an example from one Child Wise Youth Advisor about how these systemic barriers impact the lives of young people:

*"Currently the only states in the continent that allow the change of gender on a birth certificate without gender affirmation surgery are Victoria and Tasmania. NSW should join them. I am non-binary and I do not feel the need to undergo gender affirmation surgery, but I would still like my birth certificate to reflect my actual gender, not what I was assigned at birth. My immediate family live in NSW but I have moved to Victoria partially because I wanted an accurate birth certificate. I should not have to choose between*

*proximity to loved ones and having a formal document that is often a main form of identification reflect who I am on a basic level.*

*I am non-binary and I have requested many times that Centrelink add my correct gender to my file, however each time I have been told that the IT system does not allow for that. This means that any Centrelink documentation I receive misgenders me and contradicts my birth certificate. According to an IT professional it would not be difficult to update their systems to allow for more than two gender options. Every time I get referred to a service such as an employment provider through Centrelink they get documentation saying that I am female, and so when I go to the service I have to correct everyone I come into contact with and tell them that the documentation is wrong. This is extremely exhausting, physically and mentally, and would be completely avoided if Centrelink updated their systems”*

### **Empower LGBTQIA+ Children and Young People and Reduce Social Isolation**

We have experienced social exclusion, homophobia, transphobia and discrimination in schools and other institutions, including homophobic language from teachers and misgendering. There are huge power imbalances between LGBTQIA+ children and young people, who are often isolated, and adults who often benefit from the support of institutions. We believe the Bill presents an opportunity to reduce these power imbalances. Talking about preventing discrimination doesn't go far enough. We need real, meaningful and well understood policies and practices which address the experiences of LGBTQIA+ children and young people within institutions, such as:

- Clear, accessible and inclusive complaints processes and meaningful repercussions for adults and other young people who breach the rights of LGBTQIA+ children and young people;
- School uniform policies (including policies related to hair) which safeguard students' identities, safety and wellbeing;
- Training professionals in LGBTQIA+ cultural safety. We believe the lens of cultural safety acknowledges the history of LGBTQIA+ oppression, recognises LGBTQIA+ identities holistically, conveys inherent value in LGBTQIA+ identities and considers safety in its broadest sense – physical, emotional, psychological and of course cultural.

Below is an example from one Child Wise youth advisor about what can happen when staff in institutions lack training on LGBTQIA+ cultural safety:

*“When you're on the Centrelink jobseeker payment, to keep receiving the payment you need to agree to a job plan. This usually involves applying for positions and participation in upskilling. At my initial appointment to create a job plan I had told my case worker that my pronouns are they/them. She continued to refer to me as “she” even after I corrected her several times and demonstrated to her how to use my pronouns in a sentence. Then, in my job plan, she misgendered me again. She denied having done this when I asked her about it until I read what she had written out loud to her. When speaking to her manager, I was told that the diversity training all their employees received was excellent and since my case worker had apologised there was nothing that could be done. The manager refused to take any disciplinary action or require my case worker to undertake any further training. Her tone was condescending and she refused to escalate my complaint. This was concerning to me, as if the training had been “excellent” or even sufficient, my case worker would have never misgendered me in the first place.”*

As young people, we often don't get much of a say in the school we go to or the institutions which impact us, e.g. out of home care, youth detention centres, community services. So

put simply, all institutions need to be safe, inclusive and accessible places. This includes institutions which are faith-based.

### **Clarify Boundaries Around Freedom of Religion**

We celebrate diversity and intersectional identities and understand that faith is an important part of people's lives, including some LGBTQIA+ people. We, however, also feel there is a need for safe, inclusive public dialogue about freedom of religion, and a need to clarify the boundaries around freedom of religion particularly when it impacts the safety of others. We feel that by safeguarding the rights of LGBTQIA+ people, the Equality Bill could help to create a safe context for safer public discourse.

### **Promote LGBTQIA+ Mental Health and Wellbeing**

According to LGBTIQ+ Health Australia, when compared to the general population:

- LGBTI young people aged 16 to 27 are five times more likely to attempt suicide in their lifetime;
- Transgender people aged 18 and over are nearly 11 times more likely; and
- People with an intersex variation aged 16 and over, are nearly six times more likely.

These statistics are confronting and distressing, and speak to the need for legislation which safeguards the mental health of LGBTQIA+ children and young people. Some of us have lived experience of poor responses to our mental health, such as gas-lighting by schools when we raised mental health concerns; in these circumstances the individual was problematised and the systemic oppression was not acknowledged. We are also seriously concerned about the wellbeing of trans young people due to the lack of trans-affirming health care, and the toll this takes on mental health. We believe the Equality Bill should address the significant mental health concerns facing LGBTQIA+ children and young people, facilitate access to affirming supports, and raise awareness across the range of institutions which impact the lives of children and young people. Connected to this we believe there should be mandatory training for mental health professionals on LGBTQIA+ cultural safety, and that young people with lived experience should be meaningfully included in implementing policies which arise from the Equality Bill.

Here is an example of from one of the Youth Advisors about how oppressive practice in health care affects young people:

*"When I was 17, I was admitted to a children's mental health ward. I was depressed, anxious, not sleeping, and severely suicidal. I was also struggling to come to terms with my sexuality. I was in the process of trying to reconcile my bisexuality with my (at the time) Catholic faith.*

*I noticed that a nurse on duty who was supervising lunch was wearing a crucifix. I asked him about it, and he told me he was Catholic. I asked him what his opinion on same-sex marriage was. Before he said anything I also said that if he wasn't allowed to answer because of staff rules around religious/political discussions with patients then he could opt out. He said that he did want to continue with the discussion. He then told me that he believed same-sex marriage was a sin and homosexuality is abhorrent, that the bible supports his views and same-sex marriage should be illegal.*

*This was extremely distressing for me to hear, as I was hoping to find someone supportive in that moment and I was met with the opposite."*

### **Child Safeguarding and Protection**

Some of us have experienced and/or heard about poor child protection responses for LGBTQIA+ children and young people experiencing homophobia and transphobia,

including a lack of protective response and LGBTQIA+ children and young people having to take responsibility for their own safety. We believe there is a need to strengthen child safeguarding and protection systems by improving understanding about the impact of homophobia and transphobia, and making mandatory reporting responsibilities clearer regards homophobic and transphobic threat to emotional, psychological, physical safety

We are seriously concerned about the impact of conversion practices, and how the traumatic impact of this can present a barrier to affected children and young people disclosing. We believe these practices must be completely outlawed and that any child or young person at risk should have access to support and protection. We believe there is also a need to educate professionals such as teachers, psychologists, youth workers, and social workers to recognise the indicators and risks of conversion practices and report any concerns they may have. We strongly advocate for anyone involved in child safeguarding and child protection should be required to participate in mandatory training on LGBTQIA+ cultural safety.

### **Housing Policy**

We believe the Equality Bill presents an opportunity to consider structural and systemic issues that increase risk to LGBTQIA+ young people such as lack of safe housing. As one of youth advisors put it: *'Insecure housing is the story that I hear with so many trans people'*. As young people are considered dependent on parents until they're 22, there are obvious and massive health and safety risk for LGBTQIA+ young people. This sometimes means it's not safe to come out, or that they are subjected to abuse if they do. Housing policy that is not focused on the rights of young people presents a significant risk to the autonomy of LGBTQIA+ young people. It can also exacerbate other risk factors such as intimate partner violence, as some LGBTQIA+ young people may feel forced to remain in unsafe relationships to ensure they have access to housing. We strongly believe that any changes in housing policy related to the Equality Bill should meaningfully include young LGBTQIA+ people.

### **Conclusion**

We have valued the opportunity to contribute to the development of this Bill and hope that our ideas will help to shape it. We believe in the strength of diverse voices coming together to develop policy and legislation which genuinely reflects the experiences of those who are impacted. In this spirit, we would warmly welcome any future opportunities to be involved in the development of Equality Bill and to support your engagement with young people on this more broadly.

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