



**Australian Human Rights Commission
Current and emerging threats to TGD human rights**

Joint Submission from
Youth Pride Network, TransFolk of WA and Freedom

April 2024

About the contributors

TransFolk of WA (TransFolk) was founded as TransMen of WA in 2012 and incorporated as TransFolk of WA in 2017. TransFolk's vision is that all trans and gender diverse people are valued and empowered members of communities. TransFolk's services include online and in-person peer groups, drop-in sessions, an accessible free binder program, and compiled the go-to resource list for both community and care providers who support TGD clients.

The Youth Pride Network (YPN) was established in 2017 during the marriage equality plebiscite, consists of both staff and a volunteer committee of LGBTIQ+ young people. Working in the areas of systemic advocacy, education, and events, YPN's vision is for a world that is educated and accepting of LGBTIQ+ topics and issues, where young LGBTIQ+ people don't face systemic discrimination, where they have a sense of community and empowerment, and where structural inequalities and social discrimination are mitigated.

Freedom is a suite of services supporting LGBTIQ+ young people, sitting within WAAC (previously the WA AIDS Council). Freedom was originally established as Freedom Centre (FC) in 1994, WA's longest-running LGBTIQ+ drop-in centre. Freedom supports from an individual young person perspective as well as providing community capacity building initiatives in both metro and regional locations.

Acknowledgement of Country

TranksFolk, YPN and Freedom acknowledge Aboriginal and Torres Strait Islander people as the traditional custodians of this land and its waters. We wish to pay our respects to Elders past, present and emerging and extend this to all Aboriginal people seeing this message.



Overview of the submission

This submission is a collaboration between TransFolk of WA, the Youth Pride Network, and Freedom. All three organisations believe that meaningful change requires centring the voices of LGBTIQ+ and TGD people in the discussion. Though our organisations provide different supports and services for TGD people, TransFolk, YPN and Freedom are united in our commitment to advancing the rights of dignity of TGD people. Funding for our organisations is provided from the WA Department of Communities and the Mental Health Commission, highlighting the reputation that each organisation has. We highlight that TransFolk is majority volunteer-based, providing an exceptional level of advocacy and support considering its incredibly small funding base.

TransFolk, YPN and Freedom all advocate for the human rights of TGD people, believing that without systemic and societal change TGD people will continue to be one of the most marginalised, oppressed, and discriminated groups, not only in Australia but worldwide. Moreover, we acknowledge that this is heightened for TGD people with intersectional identities. We support the Commission's national discussion on the current and emerging threats TGD human rights, and welcome the opportunity to discuss how to improve, and then protect, such rights.

Scope of this submission

This submission focuses on the areas of education, housing, and healthcare for TGD young people aged 16 – 25 years old in Western Australia, including challenges and barriers related to access and experiences.

Threats to TGD human rights are increasing due to a rise in moderate-appearing, vocal and mobilised, movements. These groups leverage deeply embedded transphobic attitudes rooted in cisnormativity and binary concepts of gender. The history of criminalising and pathologising TGD identities, coupled with a lack of adequate, or enforced, legal protections against discrimination further increases the risk of egregious human rights violations.¹

TGD young people, especially those with intersecting identities, face an increased risk to their rights due to the cumulative discrimination experienced across multiple aspects of their lives. Such intersectionality highlighted in this submission include age, (dis)ability and cultural background. In addition, the unique intersection of gender identity, mental, and physical health concerns or disability, when considered alongside informed consent, service access, and age, highlights the longstanding systemic discrimination and oppression of TGD young people.

Ensuring that the systems designed to enhance and support the realisation of economic, social, and cultural rights – including, but not limited to, the right to education, healthcare, and housing – are able to safeguard, and indeed actively promote, gender affirmation and accessibility, is critical to ensuring such rights are attained by individuals and groups. Whilst civil and political

¹ LGBTIQ+ Free and Equal NOT Criminalized. United Nations, [un.org/en/peace-keeping/vulnerable-groups/lgbtqi-plus](https://www.un.org/en/peace-keeping/vulnerable-groups/lgbtqi-plus)

rights are equally important, it is essential to recognise that these are unable to be recognised without economic, social, and cultural realisation.

Our views are detailed below and in *Table 1*, providing examples of the threats, as well as the specific rights, that need to be protected.

Our views relate to the human rights of natural persons and are not constrained by the gendered language evident in the Universal Declaration of Human Rights.² We do not consider that human rights apply, or should apply, to corporate entities or systems, such as those currently in discourse regarding the rights of religious schools. However, we do consider that governments must create legislative and regulatory environments that ensure the respect and protection of human rights by such entities.

Key themes across education, healthcare, and housing

Despite the areas of education, healthcare and housing operating under different frameworks, legislation, ethics and practice, the threats to the human rights of TGD young people highlight the same themes and challenges. By highlighting the similarities of rights at risk across areas indicates that by strengthening them in one sector would support the strengthening across areas.

The treatment of TGD young people in these three sectors often directly contravenes the International Convention on the Rights of the Child. This Convention, the most widely ratified UN treaty in the world, states that “every child has the right to survival, protection and education, and to have their voice heard.”³ Despite being a signatory to this Convention, Australia has shown time and time again its inability to consider TGD young people as having such rights, consistently allowing systems and processes to continue the discrimination and oppression of their individual human rights. Without a reconfiguration of government policy and priority to ensure that discriminatory behaviours and processes are held to account, the threats towards TGD human rights will continue to grow, and with such, increase in oppressive and violent actions.

TGD rights in education

Schools are positioned as either protective or risk factors for TGD students, providing opposing environments of peer connection and support or, alternatively, experiences of discrimination alongside verbal and physical homophobic and transphobic abuse.⁴ The majority of LGBTIQ+ focused abuse experienced by young people occurs in school, with up to 80% of TGD students experiencing transphobia in an education setting.⁵ The majority of TGD students report feeling

² *Universal Declaration of Human Rights* (1948). Available from https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR_Translations/eng.pdf

³ *Knowing Your Rights. What is the UNCRC?*. Accessible from <https://www.cyp.com.au/knowning-your-rights>

⁴ *Writing Themselves in 4*.

⁵ *Ibid*.

unsafe due to their gender identity, including an inability to experience gender euphoria through using their chosen name or wearing gender affirming clothing.^{6,7}

Systemic barriers including categorising students in line with the gender binary, outdated or inadequate curriculum exploring LGBTIQ+ topics, and a lack of Education Department-endorsed and distributed anti-gender-discrimination policies and expectations, further oppress TGD student's ability to safely engage in education.⁸ Additionally, a significant number of TGD students attending religious schools report being exposed to conversion ideology,⁹ with the right to self-determination and identity compromised by the lack of protections for TGD students and staff in such institutions.^{10,11} Therefore, whilst their base right to engage in education remains intact, TGD student's educational outcomes, social connection, and fundamental safety – including mental health risks – are significantly impacted by the unsafe environment of the education system.

Considering the link between educational attainment and future standard of living, the promotion of human rights within the education system is a priority for TGD young people. Without such protections TGD students will continue to be unable to fully realise their educational potential, increasing future vulnerability and intersectional disadvantage.

TGD rights in healthcare

Health outcomes in Australia are clearly linked to access and engagement with services, with those delaying healthcare support facing increased risk of significant negative and long-term health conditions and complications. Gender affirming care practices are the recommended standard for TGD health practitioners as this increases participation and decreases service use-related anxieties, thus reducing the overall burden on the healthcare system.^{12,13,14} TGD young people face unique and nuanced healthcare needs due to their potential negative experiences with dysphoria-inducing puberty symptoms combined with increased negative rates of mental health issues.¹⁵

⁶ Ibid 3.

⁷ Youth Pride Network 2023. *State of Play – Young LGBTIQ+ people's experiences of high school*.

⁸ Writing Themselves in 4.

⁹ Youth Pride Network 2023. *State of Play – Young LGBTIQ+ people's experiences of high school*.

¹⁰ Equality Australia. *UN Expert Calls Out Discrimination Against LGBT People in Australia's Religious Schools and Service Providers*. Available from <https://equalityaustralia.org.au/un-expert-calls-out-discrimination-against-lgbt-people-in-australias-religious-schools-and-service-providers>

¹¹ Religious Freedom and LGBTIQ+ Students. *Sex Res Soc Policy* 20, 1133-1151.

¹² AusPATH 2022. Australian Informed Consent Standards of Care for Gender Affirming Hormone Therapy. Australia: Australian Professional Association for Trans Health.

¹³ Burton, C. W., et al. 2021. Queering nursing curricula: Understanding and increasing attention to LGBTQIA+ health needs. *Journal of Professional Nursing*, 37(1), 101-107. <https://doi.org/10.1016/j.profnurs.2020.07.003>

¹⁴ World Professional Association for Transgender Health 2023. *Standards of Care for the Health of Transgender and Gender Diverse People*, Version 8

¹⁵ Telethon Kids. *Trans Pathways*. Available from <https://www.telethonkids.org.au/globalassets/media/documents/brain-behaviour/trans-pathwayreport-web.pdf>

Mental health outcomes for TGD young people are consistently statistically and significantly negative compared to the general population.^{16,17,18,19}

TGD young people are:

- 15 times more likely to attempt suicide,
- 6 times more likely to self-harm,
- 6 times more likely to be diagnosed with depression or anxiety.^{20,21}

Anticipated discrimination from support services is a barrier to help seeking,²² placing TGD young people at greater risk of life endangering behaviours and outcomes. The burden placed on TGD clients to upskill and educate healthcare practitioners on gender diversity impacts engagement with services, often resulting in TGD people changing services, or alternatively, not receiving adequate care due to professional ignorance.

The lack of gender affirming care practitioners and services greatly impacts TGD young people's ability to receive gender transition-related support.²³ Extensive waitlists, age criteria, cost, and lack of competent services result in many young people being unable to access support with medical transition processes including Hormone Replacement Therapy (HRT),²⁴ or surgical affirmation support.²⁵ Whilst medical care is accessible through general GP and health services, TGD people consistently report a multitude of issues including a lack the healthcare provider's lack of education and knowledge,²⁶ stigmatised beliefs, outdated and inappropriate questions, as well as the direct denial of service based on religious or cultural beliefs.²⁷

These issues are compounded by a lack of industry standards against discrimination based on TGD identity, allowing individual practitioners to continue harmful discriminatory practices that impinge TGD young people's right to healthcare.²⁸ The additional requirement of parental consent for many medical-related supports provides further barriers to TGD young people due to issues including a lack of parental support or unsafe familial environments. Geographical

¹⁶ Ibid

¹⁷ Eres, R. et al. 2022. Loneliness, Mental Health and Social Health Indicators in LGBTQIA+ Australians. *American Journal of Orthopsychiatry*, 91(3), 358-366. <https://doi.org/10.1037/ort0000531>

¹⁸ Hill, A. O., et al. 2022. *Private Lives 3: The health and wellbeing of LGBTIQ people in Australia*. ARCSHS monograph series number 122. Melbourne, Australia: Australian Research Centre in Sex, Health and Society, La Trobe University

¹⁹ LaTrobe University, ARCSHS. 2020. *Private lives 3: The health and wellbeing of LGBTIQ people in Australia*

²⁰ LGBTIQ+ Health Australia. 2021. National LGBTIQ+ Mental Health and Suicide Prevention Strategy 2021 – 2026.

https://d3n8a8pro7vnm.cloudfront.net/lgbtihealth/pages/849/attachments/original/1635726933/MHSP_PreventionStrategy_DIGIT_AL.pdf?1635726933

²¹ Ibid 14

²² Writing Themselves in 4.

²³ Piñón-O'Connor, et al. 2023. Barriers and facilitators to publicly-funded gender-affirming surgery: the perspectives amongst a cohort of Australian clinicians. *Discov Health Systems* 2, 42. <https://doi.org/10.1007/s44250-023-00055-5>

²⁴ Nolan BJ, et al. 2023 Early Access to Testosterone Therapy in Transgender and Gender-Diverse Adults Seeking Masculinization: A Randomized Clinical Trial. *JAMA Netw Open*. doi:10.1001/jamanetworkopen.2023.31919

²⁵ *Healthcare barriers a 'peak risk' for transgender people*. RACGP. Available from <https://www1.racgp.org.au/newsgp/clinical/barriers-to-accessing-care-peak-risk-times-for-tra>

²⁶ Strauss, P. 2024. *Improving health care for trans people in Australia should be a priority*. *Med J Aust* 2024; 220(1), 22-22, DOI:10.5694/mja.252186

²⁷ Youth Pride Network. 2024. *State of Play Health Scoping Report*.

²⁸ Ibid

considerations in Western Australia impact regional young people due to the lack of local services, significant travel and cost burden, and the increased risk posed in some regional areas that lack fundamental understanding of TGD people and issues.

TGD rights in housing

Housing options for TGD young people have consistently been lacking due to historical contractual and programmatic structures that align with the gender binary. TGD young people are over-represented in homelessness statistics due to their increased vulnerability from family rejection and violence, a lack of social supports and systemic barriers to accessing financial stability.²⁹ Crisis accommodation services are often created on the premiss of gendered rooms and areas and thus are unable to accommodate for TGD individuals easily or inclusively. Therefore, TGD young people are often required to falsely align with a particular gender or risk service rejection. When services are supportive in nature but not structure, TGD young people are often 'outed' due to not fitting in with such binary attitudes, further increasing their risk of violence and marginalisation from other young people or staff.

The youth homelessness sector has long relied on the few outwardly inclusive services to accommodate all homeless TGD young people, thus leading to an over subscription on these services instead of an expansion of inclusive practices in mainstream services.³⁰ This exponentially increases the risk of service rejection from both services who don't know how to accommodate TGD young people, and inclusive services that are simply unable to help due to capacity.³¹

Homelessness strategy in Western Australia has long ignored TGD young people as a distinct group that needs protection and consideration. This is highlighted by the lack of comprehensive planning and actions within the 'All paths lead to a home': Western Australia's 10-year Strategy on Homelessness 2020-2030, including the Strategy's 2020-2025 Action Plan, whereby only two Priority Actions (3.1.1 and 3.1.7) mention the development of responses to vulnerable cohorts, including LGBTIQ+ young people.³² Furthermore, four years into the strategy and that is little information on how such actions have been implemented or considered.

As is the case stated above in education and healthcare areas, standardised and sector-required expectations do not exist. Inclusion practices are not a key requirement of tendering and reporting within the homelessness sector, allowing for state-funded generalist services to act in ways that are discriminatory, and at times abusive, towards TGD young people without an avenue for recourse.

Conclusion

We are pleased to contribute to the national conversation on threats to TGD human rights, highlighting the specific experiences and challenges faced by young people. A concerted and

²⁹ Ibid 14


³⁰ Youth Pride Network 2022. *State of Play Report – LGBTIQ+ Young People's Experiences of the Youth Accommodation System*.

³¹ Ibid.

³² *All Paths Lead to a Home: Western Australia's 10 Year Strategy on Homelessness*. Available from <https://www.wa.gov.au/system/files/2021-06/homelessness-strategy-final.pdf>.

national response to the violation of TGD human rights is required in these times of increasing hostility, violence and questioning of TGD people’s humanity and existence. Any rights frameworks and protections must include the voices of non-state actors such as civil society organisations and individuals, with a focus on ensuring the voices of TGD young people are highlighted. Such a participatory approach to the protection of human rights must occur in conjunction with government’s commitment to endorsing, strengthening and enshrining such protection agencies and avenues.

We are happy to provide further information and to participate in future consultation and future action activities related to these rights.



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Table 1: Current and emerging threats to TGD human rights

The threats to TGD human rights and those rights that are impinged include:

Issue	Examples of relevant human rights
Accessing safe and non-discriminatory education, including protecting individuals privacy.	<ul style="list-style-type: none"> • Right to recognition • Right to education • Right to privacy • Right to equality and non-discrimination • Right to an effective remedy of rights violations • Right to life • Right to an adequate standard of living, including: <ul style="list-style-type: none"> ○ Health and wellbeing ○ Medical care ○ Housing
Access to affirming and supportive education. This includes education free from identity-based ideology or conversion practices, and education that protects self-determination.	
Access to education that is supportive of learning outcomes and achievement. This includes education that enables the individual’s right to self-determination.	
Access to the highest attainable standards of health. This includes access to health services including medical and mental health	
Access necessary services to support a holistic and healthy life. This includes the right to timely and appropriate healthcare.	
Access to credible and unbiased information to enable them to make informed decisions about their health. This includes gender affirming care that is unbiased by the health practitioner’s own beliefs.	
TGD people have the right to healthcare specific to their needs. This includes avoiding unnecessary or unrequired questions about gender or physical sex characteristics.	
All persons have the right to life, including the prevention of threats to the enjoyment of the right to life with dignity. The right to life with dignity interrelates with the right of all persons to accessible housing.	