



**Submission on the *Religious Discrimination Bill 2021 (Cth)*
Youth Pride Network**

21 December 2021

**YOUTH PRIDE
NETWORK**

Youth Pride Network (YPN)

The YPN is an LGBTIQ+ youth advocacy group based in Western Australia. YPN uses systemic advocacy to work towards a Western Australia where LGBTIQ+ young people are accepted, included and celebrated by their communities. YPN has a membership of over 300 LGBTIQ+ young people across Western Australia.

YPN operates under the auspice of the Youth Affairs Council of WA. Our office is based on the lands of the Whadjuk people of the Noongar nation and we pay respects to the custodians of the boodja we operate on and the Aboriginal land across Australia.

Introduction

YPN welcomes the opportunity to submit to this inquiry and is supportive of the opportunity for affected communities to comment on the *Religious Discrimination Bill 2021 (Cth)* ('the proposed Bill').

YPN, however, does not believe that the inquiry has provided enough time for submissions to be made. Given the enormous consequences of the proposed Bill and the unprecedented nature of some components, YPN supports those affected being fully able to share their views on the legislation. Particularly, YPN notes that the inquiry takes place over a time of year where many organisations are at lower capacity or shut down for the holiday break. YPN strongly supports the timeline for this consultation to be extended and the addition of more hearings. As a Western Australian based organisation, YPN notes that we will not be able to fully participate in hearings taking place in Canberra.

YPN's position on the proposed Bill is outlined in this submission as follows:

- YPN supports introductions of protections for people of faith that are in line with other federal discrimination acts, noting that LGBTIQA+ people of faith are within that group
- YPN does not support the provisions of the proposed Bill that exclude 'statements of belief' from existing discrimination law.¹
- YPN does not support the provisions of the proposed Bill that relate to exempting conduct of religious bodies.²
- YPN does not support the provisions in the proposed Bill that restrict the powers of qualifying bodies.³

YPN also endorses the submission of Equality Australia and supports many of the issues raised in that submission that YPN has not been able to address in this submission.

¹ *Religious Discrimination Bill 2021 (Cth)* s 12.

² *Religious Discrimination Bill 2021 (Cth)* s 7-9.

³ *Religious Discrimination Bill 2021 (Cth)* s 15.

Extended meaning of ground

YPN supports the introduction of grounds for discrimination on the basis of religious belief.⁴ YPN supports these protections being in line with other acts such as the *Sex Discrimination Act 1984 (Cth)*, *Racial Discrimination Act 1975 (Cth)*, *Age Discrimination Act 2004 (Cth)*, and *Disability Discrimination Act 1992 (Cth)*. YPN notes that LGBTIQ+ young people are important members of Australian faith communities and that legislation to protect communities of faith should equally protect LGBTIQ+ young people. Research on LGBTIQ+ young people note that around 27.7% of LGBTIQ+ young people were religious.⁵ Faith and LGBTIQ+ identity are not in opposition and laws that harm LGBTIQ+ young people also harm young people of faith. In previous consultations YPN has conducted, LGBTIQ+ young people have noted:

“I know... people who are religious and identify as LGBTQIA+ who would benefit greatly from being able to find solace in their faith without the fear of being pushed away.”⁶

⁴ *Religious Discrimination Bill 2021 (Cth)* s 6.

⁵ Hill AO, Lyons A, Jones J, McGowan I, Carman M, Parsons M, Power J, Bourne A (2021) “Writing Themselves In 4: The health and wellbeing of LGBTQ+ young people in Australia. National report, monograph series number 124.” *Melbourne: Australian Research Centre in Sex, Health and Society, La Trobe University*.

⁶ Youth Pride Network (2019) “Review of the Equal Opportunity Act 1984 (Western Australia) Submission by the Youth Pride Network to the Law Reform Commission of Western Australia”. Available [here](#).

Statements of belief

YPN does not support the provisions of the proposed Bill that exclude ‘statements of belief’ from existing discrimination law.⁷

Currently, LGBTIQ+ young people experience regular discriminatory statements in all aspects of their life.⁸ Research into LGBTIQ+ young Australians found that 57.6% had experienced some form of verbal harassment.⁹ As is noted below, this has a severe impact on mental health.

By explicitly allowing statements that otherwise would be discriminatory, YPN believes this provision will serve to increase the amount of discriminatory statements that LGBTIQ+ young people experience on a day to day basis. Particularly we are concerned about how this provision will disempower LGBTIQ+ young people to address discrimination they experience in their educational institutions, their workplaces and any services they may access. While there is a right to freedom of speech guaranteed by international human rights, this does not go so far as to override LGBTIQ+ young people’s right to non-discrimination under the *International Covenant on Civil and Political Rights* (‘ICCPR’).¹⁰ Additionally, advocacy of national, racial or religious hatred that constitutes incitement to discriminate is prohibited under the ICCPR.¹¹ Further, the *Yogyakarta Principles* provide that States must ensure that “the exercise of freedom of opinion and expression does not violate the rights and freedoms of persons of diverse sexual orientations and gender identities”.¹²

In reference to these documents, it is clear in our view that the proposed Bill contravenes these rights unfairly, and provides undue emphasis to potentially discriminatory religious beliefs at their expense. We strongly oppose all exemptions for ‘statements of belief’ in their current form.

Minority Stress

YPN is concerned about the impact that an increase in discriminatory statements will have on the mental health of LGBTIQ+ young people. Research has demonstrated that LGBTIQ+ people have higher rates of mental health concerns than their non LGBTIQ+ peers.^{13,14} This is

⁷ *Religious Discrimination Bill 2021* (Cth) s 12.

⁸ Hill AO, Lyons A, Jones J, McGowan I, Carman M, Parsons M, Power J, Bourne A (2021) “Writing Themselves In 4: The health and wellbeing of LGBTQA+ young people in Australia. National report, monograph series number 124.” *Melbourne: Australian Research Centre in Sex, Health and Society, La Trobe University*.

⁹ Hill AO, Lyons A, Jones J, McGowan I, Carman M, Parsons M, Power J, Bourne A (2021) “Writing Themselves In 4: The health and wellbeing of LGBTQA+ young people in Australia. National report, monograph series number 124.” *Melbourne: Australian Research Centre in Sex, Health and Society, La Trobe University*.

¹⁰ *International Covenant on Civil and Political Rights*, Article 2, 26.

¹¹ ICCPR, Art 20(2).

¹² *Yogyakarta Principles Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity*, March 2007, Principle 19, para E.

¹³ Meyer. I, (2003) “Prejudice, Social Stress, and Mental Health in Lesbian, Gay, and Bisexual Populations: Conceptual Issues and Research Evidence”, *Psychological Bulletin*, 129(5), 674-697.

¹⁴ Bostwick, W. (2014) “Discrimination and Mental Health Among Lesbian, Gay, and Bisexual Adults in the United States”, *American Journal of Orthopsychiatry*, 84(1), 35-45.

due to minority stress, the experience of stigma, prejudice, discrimination as well as the experiences of rejection, and hiding identity.^{15, 16} LGBTIQA+ people who experience higher rates of discrimination experience more severe mental health concerns.¹⁷ Trans and gender diverse adolescents are particularly vulnerable to traumatisation from both direct and indirect victimisation due to their gender identity.¹⁸

By allowing statements that would otherwise breach discrimination law, the proposed Bill will likely have an incredibly detrimental impact on the mental health of LGBTIQA+ young people.

Service Access

Additionally, YPN believes the impact of this provision is that it will make many vital services more unsafe for LGBTIQA+ young people, restricting their ability to access support.

Homelessness Services

In 2021 YPN authored a report into the experiences of LGBTIQA+ young people in the youth accommodation system.¹⁹ Of the LGBTIQA+ young people surveyed who had accessed a youth accommodation service, 92% had one or more negative experiences.²⁰ These negative experiences included homophobia, transphobia or queerphobia (52%), feeling unsafe (40%), staff ignoring other young people discriminating against them (32%), staff discriminating against them (24%), being refused housing because of their LGBTIQA+ identity (20%), and experiencing violence because of their LGBTIQA+ identity (20%).²¹ Of trans and gender diverse young people, 70.5% had been misgendered and 88.2% had a negative experience relating to their gender identity.²²

Additionally, workers reported that in some instances young people were rejected from services because they would 'make workers in the service uncomfortable'.²³

This discrimination had a severe impact on the LGBTIQA+ young people's mental health.²⁴

¹⁵ Meyer, I. (2003) "Prejudice, Social Stress, and Mental Health in Lesbian, Gay, and Bisexual Populations: Conceptual Issues and Research Evidence" *Psychological Bulletin*, *Psychological Bulletin*, 129(5), 674-697.

¹⁶ Mays, V, Cochran, S. (2001) "Mental Health Correlates of Perceived Discrimination Among Lesbian, Gay, and Bisexual Adults in the United States", *American Journal of Public Health*, 91(11), 1869-1876.

¹⁷ Wilson, E. et al (2017) "The impact of discrimination on the mental health of trans*female youth and the protective effect of parental support", *AIDS and Behavior*, 20(10), 2203-2211.

¹⁸ Hidalgo, M. et al (2019) "The Gender Minority Stress and Resilience Measure: Psychometric Validity of an Adolescent Extension" *Clinical Practical Pediatric Psychology*, 7(3), 278-290.

¹⁹ Youth Pride Network (2021) "State of Play Report - LGBTIQA+ Young People's Experiences of the Youth Accommodation System"

²⁰ Ibid.

²¹ Ibid

²² Ibid.

²³ Ibid.

²⁴ Ibid

For young people who had entered homelessness because of family rejection of their LGBTIQ+ identity, further rejection or discrimination from services immensely compounded that trauma.²⁵ Additionally, negative experiences of a youth accommodation service meant that young people were less likely to re-engage with services in the future, meaning LGBTIQ+ young people were likely to spend a longer period of time homeless.²⁶ One worker was quoted:

“Most LGBTIQ+ young people I have supported feel highly anxious entering accommodation services as a result of previous experiences, or avoid entering them at all.”

Crucially, the report found that the most effective way to address this disparity was for services to take a no-tolerance approach to discrimination.²⁷ Services that delivered effective services to LGBTIQ+ young people did this by ensuring that discrimination was addressed and policies were in place that clearly barred discrimination.

YPN is concerned that exempting statements of belief from discrimination law would disempower service providers from addressing these statements.²⁸ This would mean that services would be effectively unable to guarantee a safe environment for LGBTIQ+ young people accessing their service. YPN is deeply concerned that this will reduce LGBTIQ+ young people’s ability to safely access services and their ability to recover from homelessness as well as compounding their trauma.

Public Education

YPN is deeply concerned that exempting statements of belief that would otherwise violate discrimination law, would make WA public schools unsafe places for LGBTIQ+ young people.²⁹ The *Equal Opportunity Act 1984 (WA)*, which currently protects LGBTIQ+ young people in public schools, would be overridden by the proposed Bill for statements of belief.³⁰

Despite these protections, LGBTIQ+ young people still experience discrimination in school. Research on LGBTIQ+ young people in Australia found that 60.2% felt unsafe or uncomfortable in school.³¹ 63.7% frequently heard negative remarks regarding sexuality and 34.2% frequently heard negative remarks about gender identity.³²

²⁵ Ibid

²⁶ Ibid

²⁷ Ibid

²⁸ *Religious Discrimination Bill 2021 (Cth)* s 12.

²⁹ *Religious Discrimination Bill 2021 (Cth)* s 12.

³⁰ *Religious Discrimination Bill 2021 (Cth)* s 12.

³¹ Hill AO, Lyons A, Jones J, McGowan I, Carman M, Parsons M, Power J, Bourne A (2021) “Writing Themselves In 4: The health and wellbeing of LGBTQ+ young people in Australia. National report, monograph series number 124.” *Melbourne: Australian Research Centre in Sex, Health and Society, La Trobe University.*

³² Hill AO, Lyons A, Jones J, McGowan I, Carman M, Parsons M, Power J, Bourne A (2021) “Writing Themselves In 4: The health and wellbeing of LGBTQ+ young people in Australia. National report, monograph series number 124.” *Melbourne: Australian Research Centre in Sex, Health and Society, La Trobe University.*

In YPN's previous consultations with LGBTIQ+ young people, it was found that experiences of discrimination at school has a negative effect on their self-worth and capacity to complete their schooling.³³ LGBTIQ+ young people have described discrimination in school made them feel "disgusting", "wrong", and a "freak".³⁴ Quotes from young people include:

"This [discriminatory process] made me (and other queer students) feel dirty and lesser".

*"When you're a teenager, your high school is your world. And the world we lived in sent a very clear message that it preferred us to not exist. Just because they weren't actively expelling queer students doesn't mean they weren't deeply hurting us in ways that we would carry with us for many years to come."*³⁵

LGBTIQ+ young people also commented on how this discrimination meant that they found it difficult to complete schooling:

*"A close friend of mine who was openly trans was refused the ability to wear a suit to our school ball and eventually left the school in our final year due to the discrimination he faced."*³⁶

These statements raise a concern that exempting 'statements of belief' from existing discrimination law will reduce the ability of public schools to address discrimination. YPN is concerned that this will lead to a hostile environment for students. In doing this, this legislation would be denying LGBTIQ+ young people their right to education under the *Universal Declaration of Human Rights*.³⁷

³³ Youth Pride Network (2019) "Review of the Equal Opportunity Act 1984 (Western Australia) Submission by the Youth Pride Network to the Law Reform Commission of Western Australia"

³⁴ Ibid

³⁵ Ibid

³⁶ Ibid

³⁷ *Universal Declaration of Human Rights*, Art 26.

Exemptions for Religious Bodies

YPN does not support the provisions of the proposed Bill that relate to exempting conduct of Religious Bodies.³⁸

While the exact meaning of the provisions would need to be tested through litigation, YPN is concerned that conduct ‘in accordance with the doctrines, tenets, beliefs or teachings of the religion’ or, ‘conduct is engaged in to avoid injury to the religious susceptibility of adherents of that religion’ would include policies that excluded LGBTIQA+ young people from receiving services.³⁹ The explanatory notes outline the purpose of these sections is to ensure that nothing in the Bill affects the ability for inherently religious organisations to manifest their religious belief and operate in accordance with their religious ethos in good faith.⁴⁰ YPN is concerned that these provisions would reasonably include discrimination against LGBTIQA+ young people within this conduct.

YPN notes that s 7(3) of the proposed Bill allows religious bodies to give preference to persons of the same religion as the religious body.⁴¹ YPN is concerned that this provision would operate in many areas, but particularly in the provision of homelessness services. YPN notes there is high demand for youth accommodation services that exceed the number of places available and that this could increase the likelihood of services de-prioritising LGBTIQA+ young people on waiting lists. This is particularly concerning given the large number of accommodation providers that are religiously affiliated in WA.

Religious Educational Institutions

YPN notes that currently, under the *Equal Opportunity Act (WA) 1984* religious educational institutions are exempt from discrimination law. However, YPN notes that in 2021 the Western Australian Law Reform Commission began a review of this legislation with widespread community consultation. The final report of this review has not been completed, however YPN notes that provisions of the proposed Bill that relates to conduct in religious educational institutions would override any proposed changes to these laws.⁴² This would result in the process of consultation with the community of Western Australia being overridden by federal legislation, that to our knowledge has not consulted with the WA LGBTIQA+ community.

YPN is concerned that provisions in s 11 of the proposed Bill would allow for religious education institutions to give preference in hiring to those who hold discriminatory beliefs against LGBTIQA+ young people.⁴³ This is potentially very damaging for LGBTIQA+ young people who

³⁸ *Religious Discrimination Bill 2021* (Cth) s 7-9.

³⁹ *Religious Discrimination Bill 2021* (Cth) s 7(2).

⁴⁰ Explanatory Notes, *Religious Discrimination Bill 2021* (Cth) 31.

⁴¹ *Religious Discrimination Bill 2021* (Cth) s 7(3).

⁴² *Religious Discrimination Bill 2021* (Cth) s 11.

⁴³ *Religious Discrimination Bill 2021* (Cth) s 11(1).

attend those religious schools and would create an environment at school that would violate their right to education, as noted above.⁴⁴

It is important to note that LGBTIQ+ young people often do not have control over which school they attend, as this decision is often made for them by their families. Additionally, if an LGBTIQ+ young person would like to leave a school that is discriminatory, not all LGBTIQ+ young people have families that would support them to do that. There are also many other reasons why an LGBTIQ+ young person may attend a religious school, particularly for young people in regional areas. Additionally, as previously noted, many LGBTIQ+ young people belong to communities of faith and have the same right to a religious education that is non-discriminatory.

⁴⁴ *Universal Declaration of Human Rights, Art 26.*

Qualifying Bodies Exemption

YPN does not support the provisions in the proposed Bill that restrict the powers of qualifying bodies.⁴⁵ YPN is very concerned about the effect this provision would have, particularly on the services that LGBTIQ+ young people receive from doctors and psychologists.

Doctors

Doctors are currently registered through the Medical Board of Australia, governed by Australian Health Practitioners Regulation Agency (AHPRA). Currently, LGBTIQ+ young people face enormous barriers to accessing health care. This is because of discrimination that they experience in the health care profession and the lack of knowledge and understanding of health care professionals.⁴⁶ It is also well known that discrimination results in lower rates of accessing healthcare.⁴⁷

In YPN's report into experiences of LGBTIQ+ young people in the youth accommodation system many trans and gender diverse young people reported experiencing severe discrimination when presenting to hospital for severe mental health distress and suicidal ideation.⁴⁸ Because of this discrimination, which included misgendering and disrespect of their identity, trans and gender diverse young people reported they were unlikely to present again to hospital, even if they were experiencing severe distress and at high risk of death by suicide.⁴⁹

YPN is concerned that by exempting statements of belief made 'other than in the course of practising the relevant profession' would further reduce confidence in the health care sector.⁵⁰ It would also likely disempower those qualifying bodies from addressing individuals who through their statements outside the course of the profession demonstrate that they are likely to discriminate against individuals in the course of their professional conduct. YPN is concerned that by authorising these statements in an unclear way, that this will disempower these bodies from acting more generally to address discrimination.

YPN questions how this will impact LGBTIQ+ young people's access to their rights under the Australian Charter of Healthcare Rights, particularly their rights to respect and to give

⁴⁵ *Religious Discrimination Bill 2021* (Cth) s 15.

⁴⁶ 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." *Telethon Kids Institute, Perth, Australia*.

⁴⁷ Saxby, K, de New, S, Petrie, D, (2020) "Structural stigma and sexual orientation disparities in healthcare use: Evidence from Australian Census-linked-administrative data" *Social Science and Medicine*, 255.

⁴⁸ Youth Pride Network (2021) "State of Play Report - LGBTIQ+ Young People's Experiences of the Youth Accommodation System"

⁴⁹ *Ibid*.

⁵⁰ *Religious Discrimination Bill 2021* (Cth) s 15.

feedback.⁵¹ YPN predicts that this will lead to LGBTIQ+ young people accessing healthcare less often and to worse health outcomes for the LGBTIQ+ community.

Psychologists

Psychologists in Australia are currently regulated by the Psychology Board of Australia, managed by the Australian Healthcare Practitioner Regulation Agency. As has previously been mentioned, LGBTIQ+ young people experience higher rates of mental distress, primarily due to the discrimination experienced because of their LGBTIQ+ identity.⁵² Because of this, access to psychological services is incredibly important.

The same concerns around medical practitioners exist for psychologists. However additionally, YPN is concerned about how the proposed Bill will reduce the ability of the Psychology Board of Australia to address practitioners who are discriminatory, or leading non-evidence based practice.⁵³ Particularly, we are deeply concerned with whether the proposed Bill will authorise 'statements of belief' that would otherwise constitute conversion ideology. As is noted in the Sexual Orientation and Gender Identity Change Efforts (SOGICE) Survivor Statement, conversion ideology - the belief that LGBTIQ+ people are 'broken' and can be 'healed' - is the underpinning of modern day conversion practices.⁵⁴ This ideology is incredibly harmful and leads to lifelong trauma for LGBTQ+ people who are subjected to this ideology and any 'conversion practices' that result from it.⁵⁵

YPN is deeply concerned that the Psychology Board of Australia could not address psychologists that demonstrate support for conversion ideology outside of the course of the practice of their profession under the proposed Bill.⁵⁶ This would remove a crucial measure the Board has to create a safe practice for LGBTIQ+ young people.

⁵¹ Australian Commission on Safety and Quality in Health Care (2020) "Australian Charter of Healthcare Rights (second edition)" Accessed from [here](#).

⁵² Meyer, I. (2003) "Prejudice, Social Stress, and Mental Health in Lesbian, Gay, and Bisexual Populations: Conceptual Issues and Research Evidence", *Psychological Bulletin*, 129(5), 674-697.

⁵³ *Religious Discrimination Bill 2021* (Cth) s 15.

⁵⁴ SOGICE Survivors, "Calling for action on: The LGBTQ+ conversion movement", Available [here](#).

⁵⁵ Jones, T.W., Jones, T.M, Power, J., Despott, N., & Pallotta-Chiarolli, M. (2021). *Healing Spiritual Harms: Supporting Recovery from LGBTQ+ Change and Suppression Practices*. Melbourne: The Australian Research Centre in Sex, Health and Society, La Trobe University

⁵⁶ *Religious Discrimination Bill 2021* (Cth) s 15.

Conclusion

The *Religious Discrimination Bill 2021 (Cth)*, in its current form, would erode the rights of LGBTIQ+ young people. YPN cannot support the proposed Bill in its current form and urges the Parliament to find the same. YPN sincerely hopes that this Bill can be revised in order to provide protection for communities of faith in a way that does not risk the wellbeing of other communities.