



13 July 2015

Director, Legal Policy  
Department of the Attorney-General and Justice  
By email: [Policy.AGD@nt.gov.au](mailto:Policy.AGD@nt.gov.au)

To the Director of Legal Policy,

### **Review of the *Domestic and Family Violence Act (NT)***

Thank you for providing the opportunity to provide a submission regarding the review of the *Domestic and Family Violence Act* ('the Act').

#### About Rainbow Territory

Formed in September 2014, Rainbow Territory is a Darwin based community group that advocates for the human rights of Northern Territorians who identify Lesbian, Gay, Bisexual, Trans, Queer and Intersex ('LGBTQI'). Rainbow Territory aims to develop a safer, fairer and a more inclusive Northern Territory.

#### LGBTQI domestic and family violence

While research into LGBTQI domestic and family violence ('DFV') has historically been lacking,<sup>1</sup> in 2012, the Australian Domestic and Family Violence Clearinghouse concluded that studies show that domestic violence exists in same-sex relationships at approximately the same rate as heterosexual relationships.<sup>2</sup>

Despite this, discussion of DFV in LGBTQI relationships has long been absent in legal, political and social arenas. The Australian Human Rights Commission recently reported that the reason for this "is not clear, but is likely a consequence of the traditional gendered nature of family and domestic violence in heterosexual relationships that is not considered in the context of same-sex relationships, that is, that there can be domestic violence in a relationship between two women or two men".<sup>3</sup>

Domestic violence in LGBTQI relationships is a reality, with people who identify as LGBTQI being perpetrators and victims, including young people who are subject to such violence in the home on the basis of their sexual orientation or gender identity.

Because of this, it is vital that domestic and family violence legislation provide specific reference to and comprehensive protection for LGBTQI people experiencing domestic and family violence. Our submission focuses specifically on the experiences of LGBTQI youth and a number of recommendations highlighted in the April 2015 issues paper.

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<sup>1</sup> Australian Domestic and Family Violence Clearinghouse Topic Paper: Domestic Violence in Gay and Lesbian Relationships, 2005, p1.

<sup>2</sup> Australian Domestic and Family Violence Clearinghouse, *Special collections - same sex*, 2012, available at [www.adfvc.unsw.edu.au/specialcollectionssamesex.htm](http://www.adfvc.unsw.edu.au/specialcollectionssamesex.htm), accessed 10 July 2015.

<sup>3</sup> Australian Human Rights Commission, *Resilient Individuals: Sexual Orientation, Gender Identity and Intersex Rights National Consultation Report*, 2015, p79.



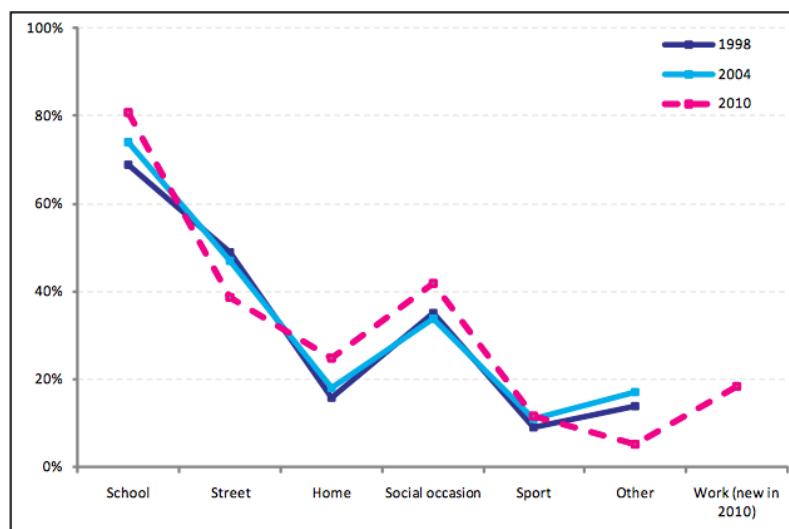
## LGBTQI people in the Northern Territory and DFV

To provide appropriate legal responses to perpetrators and victims of DFV, it is vital to highlight the intersectionalities that exist within the LGBTQI population. Anecdotally, it can be said that within the LGBTQI population of the Northern Territory, there are individuals:

- Who do not have access to local face to face specific LGBTQI counselling generally, and for DFV specifically
- Who experience high levels of stigma, discrimination and human rights abuses
- Who as children, young people or adults are survivors of DFV in their families of origin that may or may not be ongoing or intergenerational
- Who as children or young people who have experienced homophobic or transphobic motivated emotional and or physical abuse from family member/s
- Who as young people or adults experience DFV in their intimate personal relationships
- Who are Indigenous and experience racism and poverty in addition to DFV
- Who have a disability
- Who are from culturally and linguistically diverse ('CALD') backgrounds and may experience homophobia, gender discrimination and negative stereotypes from their culture of origin in addition to LGBTI discrimination
- Who may or may not be 'out' as an LGBTI person

## LGBTQI young people and DFV

While many young people report the home as a place they feel safe,<sup>4</sup> for some young people, the home is a place of abuse and violence.<sup>5</sup> A national study on the sexual health and wellbeing of same sex attracted and gender questioning young people titled "Writing Themselves In 3" ('the report'), includes 15 responses from young people living in the Northern Territory<sup>6</sup>. The report found that 24% of all respondents who were abused suffered this abuse at home.<sup>7</sup> Graph: comparison of places of abuse 1998, 2004, 2010.<sup>8</sup>



<sup>4</sup> Australian Research Centre in Sex, Health and Society, La Trobe University, *Writing Themselves In 3*, 2010, p. 50

<sup>5</sup> *Ibid*, p 45.

<sup>6</sup> *Ibid*, p 14.

<sup>7</sup> *Ibid*, p 46.

<sup>8</sup> *Ibid*. p. 50.



The report includes the following case studies from the report to illustrate the experience of young people who had experienced DFV on the basis of their gender identity or sexual orientation:

*Like I've said above, at one point they suspected I was gay (left something open on the computer. Those things will be the death of me!) I was locked into a room (by my parents and brother), much like an interrogation. Physically and mentally abused for a few hours and "released" after I'd kept saying I will kill myself (although, their reply was "Either kill yourself or we will kill you").* (Peter, 15 years).<sup>9</sup>

*i got 3 broken ribs, a broken collar bone, a punctured lung, my jaw broken in 2 different places and 7 of my teeth got punched out when my father found out i was a homosexual.* (Sian, 19 years)<sup>10</sup>

*My mother initiated a fist-fight. She began to hit me out of anger because of my sexual orientation.* (Mary- anne, 15 years)<sup>11</sup>

The impact of abuse on young same-sex attracted or questioning young people extends beyond the initial incident or experience and contributes to self-harm and suicide.<sup>12</sup> It can also be said to play a role in the disproportionate rates of homelessness experienced by young same-sex attracted and questioning youth.<sup>13</sup>

Rainbow Territory submits that the experience of DFV by LGBTQI youth be considered in any legislative change, and that the specific needs of this highly vulnerable group considered in any future DFV law or policy changes.

### Recommendation 5-2

Domestic violence within LGBTQI relationships is both unique and complex in nature. In relation to recommendation 5-2, we submit that the following could be included in the Act as examples of emotional and psychological abuse or intimidation and harassment specific to the LGBTQI community:

- "Outing" or threatening to "out" their partner to friends, family, police, church or employer;
- Telling their partner that s/he will lose custody of the children as a result of being 'outed';
- Threatening to reveal a person's HIV status;
- Telling a partner that the police or the justice system will not assist because the legal justice system is homophobic;
- Telling a partner that the abusive behaviour is normal within LGBTQI relationships and convincing the abused partner that s/he does not understand LGBTQI relationships and sexual practices because of heterosexism."<sup>14</sup>

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<sup>9</sup> Ibid, p46.

<sup>10</sup> Ibid, p 46.

<sup>11</sup> Ibid, p 42.

<sup>12</sup> Ibid, p 51.

<sup>13</sup> Ibid, p69.

<sup>14</sup> Above n 1, p3.



### Recommendation 7-2

In relation to recommendation 7-2, we submit that a statement to the effect of the below be included in a provision that explains the nature, features and dynamics of family violence:

“The experience of LGBTQI identifying victims of domestic and family violence is unique, and has the potential to be compounded by the structural, institutional and interpersonal discrimination that many LGBTQI people experience every day.”

### Recommendation 11-12

In order to provide information about gender-appropriate rehabilitation and counselling programs in line with this recommendation, it is vital that the court be cognisant of the diverse sexual orientations and gender identities of individuals within the Northern Territory. For example, a male who perpetrates domestic violence against his same-sex partner should not be provided information about a rehabilitation and counselling program that focuses on rehabilitating offenders who commit violence against women.

Rainbow Territory is concerned that the lack of appropriate programs and services for people who commit domestic violence within LGBTQI relationships will limit the ability of the court to act in accordance with this recommendation. It is imperative that the Northern Territory Government provide funding for evidence based rehabilitation and counselling programs aimed at addressing and preventing DFV in LGBTQI relationships.

### Recommendation 31-1

We strongly endorse this recommendation, and submit that LGBTQI identifying people should be regarded as a vulnerable group considering the historic and current disadvantage faced by the community, and the impact this has on LGBTQI people accessing services.

### Concluding remarks

The Australian Law Reform Commission notes that there is a lack of awareness of same-sex domestic and family violence both within and outside of the LGBTQI community.<sup>15</sup> Amending the Act to specifically refer to people who identify as LGBTQI would go some way in increasing collective awareness that DFV exists within the LGBTQI community.

This would likely have the consequence of enhancing the accessibility of DFV services such as shelters, counselling services, police and legal services to people who identify as LGBTQI, and also empower the victim by validating their experience of domestic violence within an LGBTQI relationship.

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<sup>15</sup>Australian Law Reform Commission *Family Violence and Commonwealth Laws—the Lesbian, Gay, Bisexual, Trans and Intersex Community*, 2012.

*Rainbow Territory aims to develop a safer, fairer  
and more inclusive Northern Territory*



We thank you again for the opportunity to provide this submission, and are happy to provide further comment.

Warm regards,

**RAINBOW TERRITORY**

A handwritten signature in black ink, appearing to read "Alex O'Donnell, Jane Black &amp; Samantha Bowden".

Alex O'Donnell, Jane Black & Samantha Bowden

(m) 0401 864 007

(e) [lgbtqi2014nt@gmail.com](mailto:lgbtqi2014nt@gmail.com) or [alex\\_3779@hotmail.com](mailto:alex_3779@hotmail.com)

(w) [www.outnt.info/rainbowterritory](http://www.outnt.info/rainbowterritory)