



AUSTRALIAN
LAWYERS
FOR
HUMAN RIGHTS

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The Hon. Rob Stokes MP
Minister for Education
Parliament of New South Wales
52 Martin Place
SYDNEY NSW 2000

Via email: office@stokes.minister.nsw.gov.au

Dear Minister

Supporting Safe Schools on the International Day Against Homophobia and Transphobia

On 17 May 2017 we celebrate the International Day Against Homophobia and Transphobia (**IDAHOT**). We urge you to support this important day for same-sex-attracted, intersex and gender diverse youth.

Over recent years Australia has made progress in making our country safer for lesbian, gay, bisexual, transgender and intersex (**LGBTI**) people, with strengthened anti-discrimination protections in the *Sex Discrimination Act 1984* Cth, the removal of the 'gay panic' defence from the *Criminal Code 1899* (QLD) and the passing of bills in South Australia allowing same-sex couples to adopt a child and access surrogacy.

Yet still, LGBTIQ youth remain some of our most vulnerable to abuse, harassment and violence. LGBTIQ students represent a significant minority population: 10% of students are same-sex attracted, 4% of students are trans and gender diverse and 1.7% of students are intersex.¹

A La Trobe University study of 3,134 same-sex-attracted and gender questioning (**SSAGQ**) young people, *Writing Themselves In 3*, found that:

- 10% of young people reported that their school did not provide any form of Sexuality Education at all;
- 40% attended a school with no social or structural support features for sexual difference;

¹ Radcliffe, J. Ward, R. Scott, M. Richardson, S. 2013. Safe Schools Do Better: Supporting sexual diversity, intersex and gender diversity in schools. Safe Schools Coalition Australia.

- Only 19% of young people attended a school that was supportive of their sexuality; and
- Over a third described their school as homophobic.²

A survey of 564 LGBTI individuals in 2015 by the Bully Zero Australia Foundation reported that:

- Over 50% of same-sex-attracted or gender diverse young people in Australia have experienced verbal abuse;
- Over 15% of same-sex-attracted or gender diverse young people in Australia have experienced physical abuse; and
- Over 70% of these homophobic and transphobic incidents take place in schools.³

Bullying and discrimination can impact on young people's mental health, self-esteem and sense of safety. This can in turn affect attendance, concentration and academic achievement. The Beyond Blue report *From Blues to Rainbows* on mental health and wellbeing of Australian trans and gender diverse young people found that almost two thirds of the young people had experienced verbal abuse in response to their gender presentation or non-conformity, and one fifth had experienced physical abuse. Over 90% of young people who experienced physical abuse had thought about suicide in response to their experience.⁴

By signing (on 22 August 1990) and ratifying (on 17 December 1990) the *United Nations Convention on the Rights of the Child*⁵ (the **Convention**), Australia has committed to taking all appropriate measures to ensure children are protected against all forms of discrimination, irrespective of their gender or sexuality⁶ and to ensure children have access to information aimed at the promotion of their physical and mental health⁷.

Australia has also committed to protecting children from physical or mental abuse when they are in care⁸ and recognising the rights of the child to the enjoyment of the highest attainable standard of health through education.⁹ Homophobia and transphobia in Australia remain barriers to these human rights.

Australia signed the Convention very soon after its inception and the Convention remains the most ratified international human rights law convention. It follows that children's rights as set out in the Convention are a strong, universally accepted standard.

² Hillier, L., Jones, T., Monagle, M., Overton, N., Gahan, L., Blackman, J., & Mitchell, A. 2010. Writing themselves in 3: The third national study on the sexual health and wellbeing of same sex attracted and gender questioning young people, 79.

³ Bully Zero Australia Foundation. 2017. What is Homophobic Bullying? accessed at <http://bzaf.org.au/homophobic-bullying/> on 29 March 2017.

⁴ Smith, E., Jones, T., Ward, R., Dixon, J., Mitchell, A., & Hillier, L. 2014. *From Blues to Rainbows: Mental Health and Wellbeing of gender diverse and transgender young people in Australia*. Melbourne: The Australian Research Centre in Sex, Health, and Society, 12.

⁵ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3

⁶ Ibid Article 2

⁷ Ibid Article 17

⁸ Ibid Article 19

⁹ Ibid Article 24

We urge you to come out publicly in support of IDAHOT and make clear that you do not tolerate homophobia or transphobia in schools.

Research demonstrates that social inclusion must be embedded into the school curriculum, in programs and policies. *Writing Themselves In 3* found that young people who attended a school that was supportive, rather than homophobic, were less likely to self-harm and suicide.¹⁰ Research from *Beyond Blue* identifies this population as needing targeted and tailored support at school:

Inclusive schools were those where leadership and teachers tried to address students with their preferred pronouns, were flexible about uniform and toilet arrangements, took a stand against bullying, and aimed to be accommodating to the individual's needs.¹¹

Australia's LGBTIQ youth need your support on 17 May.

Recalling Australia's above-mentioned international human rights obligations, we encourage you to celebrate the day and to continue to take active steps to create safe and inclusive school environments for LGBTI students, staff and families.

We would be grateful if you could contact us to meet about the contents of this letter and these very important issues.

Kind regards



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ALHR was established in 1993 and is a national association of Australian solicitors, barristers, academics, judicial officers and law students who practise and promote international human rights law in Australia. ALHR has active and engaged National, State and Territory committees and a secretariat at La Trobe University Law School in Melbourne. Through advocacy, media engagement, education, networking, research and training, ALHR promotes, practices and protects universally accepted standards of human rights throughout Australia and overseas.

¹⁰ Hillier, L., Jones, T., Monagle, M., Overton, N., Gahan, L., Blackman, J., & Mitchell, A. 2010. Writing themselves in 3: The third national study on the sexual health and wellbeing of same sex attracted and gender questioning young people, 73.

¹¹ Smith, E., Jones, T., Ward, R., Dixon, J., Mitchell, A., & Hillier, L. 2014. From Blues to Rainbows: Mental Health and Wellbeing of gender diverse and transgender young people in Australia. Melbourne: The Australian Research Centre in Sex, Health, and Society, 12.