

## Religious Freedom Bills

People should not face discrimination on the basis of their faith (or non-faith), gender identity or sexuality.

Mental Health Australia supports the right of all Australians to access adequate healthcare, including mental healthcare.

This brief submission is focussed on the potential impact of the proposed Bills on access to healthcare and the potential for increased discrimination against vulnerable groups that will impact negatively on their mental health.

The current exposure drafts of the Religious Freedom Bills do not achieve an appropriate protection for all parties by privileging religious freedom rights over the human rights of others. This has the potential to increase stigma and discrimination against already marginalised groups of people that have disproportionate rates of mental illness. Mental Health Australia is the peak, national non-government organisation representing and promoting the interests of the Australian mental health sector and is committed to achieving better mental health for all Australians. Mental Health Australia is particularly concerned with the potential unintended impact of these Bills on the mental health of people groups who already experience high rates of suicide and mental illness.

If enacted, the Bills could make it easier for health practitioners to refuse health services on the basis of the health practitioner's purported religious belief (see sections 8.5 and 8.6 of the *Religious Discrimination Bill 2019*).<sup>1</sup> Mental Health Australia sees potential detrimental impacts for (but not limited to) LGBTIQ+ people seeking healthcare and people seeking access to contraception, reproductive and sexual healthcare (including where an assault has occurred) as a direct result of these two sections.

LGBTI people are already twice as likely to be diagnosed and treated for mental health disorders and 16% of LGBTI young people and 35% of transgender people have attempted suicide in their lifetime, compared to 3.2% of the general population aged 16 and over.<sup>2</sup> The National LGBTI Health Alliance states that poor mental health outcomes can be “directly related to experiences of stigma, prejudice, discrimination and abuse”.<sup>3</sup>

Although these statistics show a clear need for access to safe and effective mental and physical health services, the Religious Freedom Bills have the potential to increase the stigma experienced by LGBTIQ+ people from health professionals, resulting directly in further deterioration of their mental health.

Increase in stigma is also likely to have a direct impact on the willingness of LGBTIQ+ people experiencing mental health difficulties to seek help. Without appropriate treatment, mental health conditions are likely to deteriorate. The Religious Freedom Bills as drafted may also hamper efforts to ensure there are appropriate services available to LGBTIQ+ people, particularly in regional and remote

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<sup>1</sup> Karp, P (2019) Religious discrimination bill may breach constitution by allowing doctors to refuse treatment, retrieved from: <https://www.theguardian.com/world/2019/sep/30/religious-discrimination-bill-may-breach-constitution-by-allowing-doctors-to-refuse-treatment>

<sup>2</sup> National LGBTI Health Alliance (2016) Snapshot of Mental Health and Suicide Prevention Statistics for LGBTI People

<sup>3</sup> National LGBTI Health Alliance (2016) the Statistics at a Glance: the Mental Health of Lesbian, Gay, Bisexual, Transgender and Intersex People in Australia, retrieved from: <https://lgbtihealth.org.au/statistics/>



areas where there may only be one health provider, creating a situation of inequality of access to healthcare.

The Religious Freedom Bills operate quite differently to state legislation, which provide for the right to conscientious objection but ensure access to adequate healthcare. Under some state legislation, where it exists, procedures and services subject to conscientious objection allow health practitioners scope for conscientious objection for particular procedures or treatments, while requiring a referral process to another health practitioner.<sup>4</sup> However for health services that are not subject to such regulation, which is the majority of health services, there are no such safeguards. Given the wide scope of health professionals, including mental health professionals, covered by the proposed Bills and the lack of identification of specific treatments or procedures, there is the potential for mental health professionals to refuse treatment on religious grounds. This could have the disastrous impacts outlined above targeted at already vulnerable community members.

Further, a Bill privileging the rights of one group of the population over another has the potential to cause broader harm than a direct lack of access to services. Stigmatising attitudes, especially when embedded in the nation's statutes, cause harm to the whole population, and to LGBTIQ+ people in particular.

Mental Health Australia recommends that the current Bills (and in particular sections 8.5 and 8.6 of the *Religious Discrimination Bill 2019*) are re-examined to ensure Australians' fundamental human right to access to healthcare is not compromised by legislation that preferences religious freedom over other human rights. All Australians deserve access to appropriate healthcare, including mental healthcare. As they currently stand, the Religious Freedom Bills do not protect these fundamental human rights.

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<sup>4</sup> See for example: *Abortion Law Reform Act 2008 (Vic)*, s 8; and *Termination of Pregnancy Act 2018 (Qld)*, s 8.

