

National LGBTI Health Alliance

Health and wellbeing for lesbian, gay, bisexual, trans, intersex (LGBTI) people and sexuality, gender, and bodily diverse people and communities throughout Australia

PO Box 51 Newtown NSW 2042

(02) 8568 1120

Executive Director: Rebecca Reynolds



24 September 2015

Paul Pfitzner

Acting Assistant Secretary

Human Rights Policy Branch

Commonwealth Attorney-General's Department

Sent via email to [email address redacted by departmental request]

Dear Assistant Secretary

RE: Commonwealth Attorney-General's Department Review of the *Australian Government Guidelines on the Recognition of Sex and Gender*

The Sex and Gender Advisory Group convened by the Commonwealth Attorney-General's Department to guide the Department on the Review of the *Australian Government Guidelines on the Recognition of Sex and Gender* consists of five members who are leading national figures in this area: Dr. Gávi Ansara from the National LGBTI Health Alliance; Sue Webeck from A Gender Agenda; Morgan Carpenter from Organisation Intersex International Australia; Peter Hyndal from Transformative; and Sally Goldner from Transgender Victoria.

The National LGBTI Health Alliance is Australia's national peak body of organisations and individuals working to improve the health and wellbeing of lesbian, gay, bisexual, trans, and intersex (LGBTI) people and sexuality, gender, and bodily diverse people and communities throughout each State and Territory in Australia. **A Gender Agenda (AGA)** is an ACT-based community organisation actively engaged in increasing public awareness and understanding of diverse genders and bodies. **Organisation Intersex International (OII) Australia** is an independent national Australian support, education and policy development organisation, by and for people with intersex variations. **Transformative** is an organisation specialising in gender related policy advice, resource development and training. **Transgender Victoria (TGV)** was founded in the late 1990s to achieve justice, equity and quality health and community service provision for transgender people, their partners, families and friends through education, human rights and policy development that empower trans people to lead full and meaningful lives.

The Sex and Gender Advisory Group members wish to express our unanimous support for simplifying the description of the gender and sex category of 'X' used by Australian Government departments and in the Australian Standard on data collection (AS4590) to 'non-binary'.

We also wish to express our unanimous and serious concerns about the ongoing and inappropriate use of 'intersex' as a descriptor for 'X'.

We further state our unanimous view that the continued use of 'intersex', 'unspecified' and 'indeterminate' in data collection using the 'X' category is likely to perpetuate existing data integrity issues.

After over a year of extensive consultation and discussion in this group, we note that the unanimity of our consensus on these issues is unprecedented and constitutes our united view on the collection and use of sex and gender data.

The widespread confusion between gender identity and intersex status across Australian Government departments has led to unintended consequences that may contravene the Sex Discrimination Act 1984 prohibition of indirect discrimination on the basis of gender identity and intersex status.

The term 'indeterminate' also implies a lack of determined category. We note that people who do not identify as women or men in terms of gender, and, separately, people whose bodily characteristics are not considered stereotypically female or male, are not 'indeterminate' and often have clearly determined ways of categorising themselves.

Categorising people of non-binary gender experience from cultures and societies that have traditionally recognised more than two genders as 'indeterminate' is a form of structural violence that enacts erasure, perpetuates racism, and perpetuates existing access barriers to government services for non-binary people.

Given the diversity of languages spoken across Australian populations, there is no single term that people of all cultures use to describe people of non-binary experience. Thus the third option aside from women and men should be clear and readily intelligible to as wide a range of people as possible. The current description does not fit this criterion.

Based on previous consultation with our members and with populations across Australia that are most likely to be directly affected by this issue, **we unanimously recommend 'non-binary' as the best possible option** to ensure the inclusion of non-binary people in Australian Government data collection, databases, forms, and wherever else administrative sex/gender categories are used and to improve data integrity.

Best regards,

The Sex and Gender Advisory Group

Dr. Gávi Ansara, National LGBTI Health Alliance

Sue Webeck, A Gender Agenda

Morgan Carpenter, Organisation Intersex International (OII) Australia

Peter Hyndal, Transformative

Sally Goldner, Transgender Victoria

