

Monday, 22 May 2023

The Honourable Jaclyn Symes
Attorney General
Level 3, 1, Treasury Place
East Melbourne, VIC, 3002

By email: Jaclyn.symes@parliament.vic.gov.au



Dear Attorney General,

We support anti-vilification reforms for a wider range of communities.

We are a coalition of individuals and organisations working in mental health writing to express our support for urgent reform of Victoria's anti-vilification framework. Specifically, so that the Framework better protect a wider range of Victorians from harms.

The 2021 Parliamentary Inquiry into Victoria's Anti-Vilification Frameworks (Parliamentary Inquiry) found that significant reform was needed to protect our community from hate and violence.ⁱ The Racial and Religious Tolerance Act 2001 (Vic) (RRTA) only protects people against vilification based on race and religion. Other communities, including people with disabilities, lesbian, gay, bisexual people, trans and gender diverse people, women, intersex people and people with a positive HIV/AIDS or Hepatitis Cⁱⁱ status, are not protected.

The religious and race-based protections are themselves inadequate, with very few successful civil cases before the Victorian Civil and Administrative Tribunal and even fewer successful criminal prosecutions for serious vilification.ⁱⁱⁱ The legal "bar" is too high, meaning the protection for the community is too low.^{iv} At present, Victoria's laws do not do enough to protect many marginalised communities from the hate we have seen on Melbourne's streets. We support calls for their reform as well as the government's in-principle commitment to meet those calls.

Vilification, alongside discrimination, is a significant cause of mental distress within the community and has been identified as having particular impacts for specific cohorts.^v For instance we congratulate the Victorian Government's additional funding for the LGBTIQ+ specialist mental health care,^{vi} which gives effect to a recommendation under the Parliamentary Inquiry.^{vii} However this investment will cease to remain cost effective in environments whereby disproportionate levels of vilification towards particular groups continues to exacerbate threats of violence, high distress and suicidality.

Compounding this, is the fact that people experiencing distress as a consequence of vilification – remain open to vilification based on their mental health status^{viii} as this is not a protected attribute under the RRTA.^{ix}

Therefore, we support calls for anti-vilification reforms.

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We also request that a stand-alone mental health attribute, and attributes which cover people with disabilities, lesbian, gay, bisexual people^x, trans and gender diverse people^{xi}, women, intersex people and people with a positive HIV/AIDS^{xii} or Hepatitis C^{xiii} status to be pursued this year and within this budget cycle. Furthermore, we urge commensurate funding to be reinstated for the Victorian Equal Opportunity and Human Rights Commission to give effect to these protections^{xiv}.

Please don't hesitate to contact the first author to discuss this further.

Yours sincerely,

Craig Wallace (he/him), CEO, Victorian Mental Illness Awareness Council

Son Vivienne (they/them), CEO, Transgender Victoria

Karen Field (she/her) CEO Drummond Street/Queerspace

Joe Ball (he/him), CEO, Switchboard

Gill Callister (she/her), CEO, Mind Australia

Katie Larsen (she/they), Senior Manager Inclusion and Participation, Mind Australia

Lee Carnie (they/them), Human rights lawyer and LGBTIQ+ community advocate

Vrinda Edan (she/her), Consumer Academic, University of Melbourne

Simon Katterl (he/him), Human Rights and Mental Health Consultant, Simon Katterl Consulting

ⁱ Legal and Social Issues Committee, *Inquiry into Anti-Vilification Protections* (Parliament of Victoria, 2021) <https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_Homelessness_in_Victoria/Report/LCLSIC_59-06_Homelessness_in_Vic_Final_report.pdf>.

ⁱⁱ Such protections are provided in New South Wales: *Anti-Discrimination Act 1977* (NSW) s 49A(3).

ⁱⁱⁱ To see the mental health impacts of racial discrimination, see: Yin Paradies et al, 'Racism as a Determinant of Health: A Systematic Review and Meta-Analysis' (2015) 10(9) *PloS one* e0138511; Angeline Ferdinand, Yin Paradies and Margaret Kelaheer, *Mental Health Impacts of Racial Discrimination in Victorian Aboriginal Communities* (Deakin University, 2013).

^{iv} Legal and Social Issues Committee (n 2) 112–123.

^v Stefano Verrelli et al, 'Minority Stress, Social Support, and the Mental Health of Lesbian, Gay, and Bisexual Australians during the Australian Marriage Law Postal Survey' (2019) 54(4) *Australian Psychologist* 336; Mind Australia, 'Trans Community Flocks to Mind Australia Suicide Prevention Support Service in Wake of Publicised Anti-Trans Hate', *Mind Australia* (28 March 2023) <<https://www.mindaustralia.org.au/trans-community-flocks-mind-australia-suicide-prevention-support-service-wake-publicised-anti-trans>>.

^{vi} Mind Australia, 'Mental Health Support Bolstered for the LGBTIQ+ Community', *Mind Australia* (30 March 2023) <<https://www.mindaustralia.org.au/mental-health-support-bolstered-lgbtq-community>>.

^{vii} Recommendation 27: Legal and Social Issues Committee (n 2).

^{viii} Simon Katterl, 'Words That Hurt: Why Mental Health Stigma Is Often Vilification, and Requires Legal Protection' (2023) 0(0) *Alternative Law Journal* 1.

^{ix} It will be covered under a future attribute of disability, but this may not carry visibility for people experiencing mental health vilification.

^x To see mental health stats as they relate to this community, see: LGBTIQ+ Health Australia, *Snapshot of Mental Health and Suicide Prevention Statistics for LGBTIQ+ People* (LGBTIQ+ Health Australia, October 2021) <https://assets.nationbuilder.com/lgbthealth/pages/549/attachments/original/1648014801/24.10.21_Snapshot_of_MHSP_Statistics_for_LGBTIQ_People_-_Revised.pdf?1648014801>.

^{xi} For evidence of the mental health inequities as they relate to this community, see: Ingrid Bretherton et al, 'The Health and Well-Being of Transgender Australians: A National Community Survey' (2021) 8(1) *LGBT health* 42.

^{xii} For stigma and discrimination as it impacts this community, see: John B Pryor and Glenn D Reeder, 'HIV-Related Stigma' [2011] *HIV/AIDS in the post-HAART era: Manifestations, treatment, and epidemiology* 790; Sean Slavin et al, *The HIV Stigma Audit: Community Report* (National Association of People Living with HIV/AIDS, 2013) <https://napwha.org.au/files/napwa_stigma_audit_report.pdf>.

^{xiii} Such protections are provided in New South Wales: *Anti-Discrimination Act 1977* (NSW) s 49A(3). To see the impacts of stigma on these communities, see: hepatitis australia, *Real Lives and Reducing Hepatitis Related Stigma and Discrimination* (Submission on systemic barriers and stigma and discrimination experienced by people affected by hepatitis B or hepatitis C in accessing health

services for hepatitis B, hepatitis C and/or HIV prevention, care or treatment., 2017) <<https://removingbarriers.ashm.org.au/wp-content/uploads/2017/01/Hepatitis-Australia-Stigma-and-Discrimination.pdf>>; Rui Tato Marinho and David Pires Barreira, 'Hepatitis C, Stigma and Cure' (2013) 19(40) *World Journal of Gastroenterology: WJG* 6703.

^{xiv} Recommendation 19: Legal and Social Issues Committee (n 1).