

# LGBTI fact sheet 4b - Discrimination, exclusion & trauma

## The influence of historical discrimination, exclusion and trauma

Older LGBTI peoples may have experienced stigma, discrimination,

criminalisation, family rejection and/or social isolation throughout their lifetime (1-6).

- Many have been left with residual fears from the times in which they grew up (7). Australia's history of discrimination toward LGBTI peoples dates back more than a century.

### Timeline

1901	Australia becomes a federation. State and territory governments adopt variations of the UK's anti-homosexual laws. Sexual activity between men was considered a capital crime leading to execution.
1949	Sexual activity between men was gradually reduced from a crime punishable by death to a crime punishable by life imprisonment, with Victoria the last State to downgrade the penalty in 1949.
1950	With the advent of new diagnostic and surgical techniques, doctors began performing 'normalising' surgeries on intersex infants without their consent despite the surgeries being irreversible and not medically required. This practice continues throughout the world today.
1952	The American Psychiatric Association classified homosexuality as a Sociopathic Personality Disorder. Until the 1980s a person could be sent for medical treatment to be 'cured' of their homosexuality.
1968	The American Psychiatric Association defined homosexuality as a Sexual Deviation.
1968	Homosexual Law Reform Society formed in Canberra.
1969	The Stonewall riots occur in Greenwich Village, New York. Transgender people were key catalysts to this uprising which is often considered the starting point for Gay Liberation worldwide. The ripple effect was soon apparent in Australia.
1970	Campaign Against Moral Persecution (CAMP) formed in Sydney. Branches in other states formed later.
1972	SA Police throw an openly gay academic man into the Torrens River resulting in his death, focusing attention on gay rights and police violence.  SA legislates that if anal sex is committed in private between consenting adults older than 21, this will be a defence to the crime.
1973	The American Psychiatric Association removed homosexuality from the mental illness classification.
1975	SA is the first state in Australia to decriminalise male acts of homosexuality and equalise the age of consent for same sex activity and heterosexual activity.

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1978	First Gay Mardi Gras parade held 24th June in Sydney to mark 'International Gay Solidarity Day'. The violent police response and the arrest of 53 people brought national attention.
1980	'Transsexualism' introduced into the revised edition of the mental health manual used by psychiatrists, the Diagnostic and Statistical Manual of Mental Disorders (DSM-III) to describe the transgender experience.
1982	Australia's first reported case of HIV/AIDS.
1984	The Australian Medical Association removed homosexuality from its list of illnesses and diseases.
1992	The World Health Organisation removed homosexuality from its list of illnesses and diseases. Ban on same-sex attracted men and women serving in the military removed.
1994	The revised Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) renamed the transgender experience 'gender identity disorder'.
1997	Tasmania is the last state in Australia to decriminalise homosexuality. The 'homosexual advance defence', also known as the gay panic defence is upheld by the High Court of Australia. This is a legal defence used when a defendant claims they acted in a state of violent temporary insanity due to an alleged psychiatric condition called 'homosexual or trans panic'.
2003	The United Nations Human Rights Committee found Australia in breach of the International Covenant on Civil and Political Rights for denying a veteran's pension to same-sex spouse. Tasmania was the first State in Australia to abolish the homosexual advance defence.
2004	The Australian Government amended the Marriage Act to explicitly exclude same-sex couples from marriage. Marriage is defined as the 'union of a man and a woman to the exclusion of all others.'
2008-2009	Commonwealth legislation (relating to areas such as health, ageing, employment, defence, education, immigration, citizenship, families, tax and community services) was reformed to improve equality for LGBTI peoples and recognise same sex de facto couples.
2011	The Australian Government passes passport legislation allowing for an 'x' gender option, and the ability for transgender people to select their gender without medical intervention.
2012	Australian Government developed a National Strategy for LGBTI Ageing and Aged Care. Amendment to the Aged Care Act 1997 to afford older LGBTI peoples 'special needs group' status. Until 2012 the Australian government refused to issue a 'Certificate of No Impediment to Marriage' to same-sex couples effectively preventing them from getting married in many overseas countries.
2013	The revised Diagnostic and Statistical Manual of Mental Disorders (DSM-V) renamed the transgender experience 'gender dysphoria'.

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2013	ACT passed same-sex marriage legislation but it was quashed by the High Court. Federal legislation prevented Australian States from passing their own laws.
	Sex Discrimination Act 1984 amended to prohibit discrimination on the grounds of sexual orientation, gender identity or intersex status. This was the first time intersex status was protected under Australian discrimination legislation.
2014	The Australian high court ruled that NSW Registrar of Births, Deaths and Marriages must recognise a third gender allowing for a person's sex to be registered as 'non-specific'.
2016	The standard diagnostic tool for epidemiology, health management and clinical purposes, the International Statistical Classification of Diseases 10th Revision (ICD-10) released. Transsexualism classified under 'Mental and Behavioural Disorders'.
	Queensland was the second last state in Australia to abolish the homosexual advance defence. This defence remains available in SA.
	Queensland was the last state in Australia to equalise the age of consent.
2017	Australian Marriage Law Postal Survey votes to approve legalising same sex marriage and the Marriage Amendment Bill 2017 introduced into the Australian Senate. The bill amended the definition of 'marriage' in the Marriage Act to recognise a 'union of 2 people' enabling same-sex marriage. The first legal same-sex weddings under Australian law were held on 15 and 16 December.
	The Australian Government released the Aged Care Diversity Framework as a step towards more inclusive aged care. Together with the LGBTI Aged Care Action Plan, these documents replaced the LGBTI Ageing and Aged Care Strategy.
2018	The new ICD-11 which reclassifies 'gender incongruence' under 'conditions related to sexual health' released. ICD-11 will be presented at the World Health Assembly in 2019 to come into effect in 2022.
2019	The Australian Government released the document 'Actions to support Lesbian, Gay, Bisexual, Trans and Gender Diverse and Intersex elders: A guide for aged care providers'.

## Human rights violations

- The threat and actuality of heterosexist harassment, sexual assault and/or violence are frequently a part of LGBTI people's history and/or day-to-day lives (8-13).
- Rates of physical and non-physical abuse are reportedly highest for transgender men and women (4, 14-22). Incidents are frequently not reported to the police (13).
- Older LGBTI peoples may have experienced human rights and citizenship violations throughout their lives, including being denied the right to marry and form a family as well as the right to hold documents that reflect their gender identity.
- Amending public documentation to reflect the affirmed gender of transgender and intersex peoples can be essential to their sense of personal and identity recognition (23, 24).

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- Attitudes toward LGBTI peoples vary greatly across spiritual and religious traditions. Religious institutions have historically played a significant role in how LGBTI peoples are viewed.
- LGBTI peoples may be part of a religion whose traditions prohibit LGBTI expression. As such the person may struggle with shame and guilt when torn between their identity and the teachings of their faith.
- Even those who are non-practising may be affected by the religion of their upbringing or the religious norms reflected in society (4, 18, 25).
- Transgender people may have been humiliated when attending a funeral or other service in a place of worship, which practices gender separation, when they are forbidden to enter either the women's or men's areas.
- Some same-sex attracted and transgender people have previously been subjected to 'conversion, reorientation or reparative therapies' in an attempt to suppress their sexual orientation or change their gender identity.
- Such unregulated therapies were often delivered by practitioners who were operating outside the medical system and rarely accredited. These harmful conversion therapies were ineffective and often left the person with increased mental health issues (16, 26-29).
- Ongoing isolation in dementia or a mistrust of authority arising from past experiences of discrimination and institutional abuse by medical, health and welfare services (5, 30-33) can trigger BPSD.

## Impact of traumatic experiences

- The impact of criminal convictions continues for some older gay, lesbian and transgender people where the convictions remain on criminal record, even when they have previously been convicted of engaging in consensual sexual activity, despite changes to the law (16, 34).
- This can impact on their ability to travel, find a job and/or participate in voluntary work or other activities that require a criminal background check (35).
- Recent changes to legislation in some states of Australia mean that those previously convicted of homosexual sex between consenting adults can now apply to have their criminal record expunged (33).

**\*Note:** From the 1970s until the early 90s, instances of gay men being hunted, entrapped, assaulted and killed because of their sexual orientation occurred in Sydney and other parts of Australia.

Some were chased to their deaths off cliffs; others disappeared and have never been found.

- These cases were often not fully investigated (9, 36-39). Many have been reopened or are still under investigation.
- Older gay men and transgender people may have memories of the fear associated with this shameful period in Australia's history; dementia will potentially exacerbate the related trauma.
- Many older gay men and lesbians have traumatic memories of their peers dying of AIDS-related conditions in the 1980s and

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90s (40). Those who survived the death of a partner or close friends from AIDS often had a limited support system and access to traditional mourning rituals to assist them through the bereavement process.

- The advent of the HIV/AIDS virus was used by some to rationalise discrimination and violence, giving perpetrators an excuse to express their prejudices against gay men (9, 12, 41). While violence was illegal it was often socially sanctioned (12).

## Transgender & intersex experiences

- Transgender and intersex older peoples may have suffered discrimination or harassment in many day to day areas of life when they do not fit within social norms, e.g. when shopping for medicines, clothes, shoes or cosmetics (2) and/or when accessing fitness activities, sports, accommodation or overseas travel (42).
- Older LGBTI peoples who did not conform to expected gender norms as children, in terms of dress, the toys they played with or other behaviours, were frequently diagnosed with Gender Identity Disorder (see *glossary*). As children they may have been traumatised by being subjected to psychotherapy and/or behaviour modification as well as bullying and social isolation.

## Resilience

- Older people who are part of the LGBTI community may have developed resilience in the face of lifelong systemic and social discrimination (16, 43-45).
- Broader informal support systems which may include members of their family and

community can provide increased resources to draw on to deal with life challenges and help build resilience (44, 46). This resilience can mediate the impact of discrimination as they age (47).

- Older LGBTI peoples may have developed resilience through the strategies they have used to manage their physical, emotional and social well-being with the strength of their community around them (43, 48-50).
- Equally, they may have found meaning in providing support and guidance to younger members of the community.
- The onset of dementia can potentially bring traumatic memories to the fore and erode the resilience that has given the person who is L, G, B, T or I strength in the past, increasing their vulnerability to BPSD.

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See *Fact sheet 1 – Overview* for details.