

## **1st Sex and/or Gender Diversity Human Rights and Dignity Conference. Australasia, 2 December, 2011.**

The recommendations were arrived at by eight workshops and one plenary at the conference. These recommendations remain open for public consultation until the 31 December, 2011 to allow those who were unable to attend the conference to contribute their ideas. Suggestions may be sent to the conference email and will be considered by the organising committee.

In advance the conference would like to thank delegates for their incredible work.

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Sex and/or gender diverse (SGD) people are made up from many differing groups including people who are intersex, transexed, transsexual, transgendered, androgynous, without sex and gender identity, cross-dressers and people with sex and gender culturally specific differences. They are people who experience variations in physical presentation and social behaviour that is other than stereotypically male or female. Each group may have its own physical, psychological, social, legal and political issues that may not necessarily relate to any of the other groups.

What was notable about the conference is that many of the completely separate workshops came up with many of the same human rights concerns.

### **Service Providers**

1. A national organisational network of service providers working with SGD people be set up with regular conferences and community-centred consultation.
2. Standards of care should be used by those institutions.
3. Education should take place within organisations on SGD issues.
4. Mandatory SGD training in healthcare and social services.
5. Institutions should declare their policies, procedures and prejudices around SGD people.
6. Institutions should require staff to use the 'Ask etiquette' asking people how they wish to be referred to and addressed.
7. More provision of regional services needs to be provided.
8. Institutions should investigate technological solutions for reaching regional communities.
9. Good risk assessment processes and procedures need to be used.
10. Government should require proof of competence in government-funded projects in the areas of sex and/or gender diversity policies.

### **Mental Health**

1. De-psychopathologisation of SGD as a standard for sex and/or gender diverse people should involve removing it from the Diagnostic and Statistical Manual of Mental Disorders (DSM). Whilst it is recognised some people do experience sex and/or gender dysphoria (anxiety) not all sex and/or gender diverse people do. People who are gender expressive or who experience sex and/or gender dysphoria should not be forced into the psychiatric model in order to access hormones and surgery. Specialists in medicine work via a referral system, so endocrinologists and surgeons should accept letters of referral from psychiatrists, psychologists, psychotherapists, counsellors, sex therapists and social workers experienced in sex and/or gender diversity along with a GP referral for Medicare

rebates. Training for mental health professionals in SGD issues should be mandatory for all healthcare professionals.

2. The label of Disorders of Sexual Development (DSD) should not be used for intersex people. Many intersex people do not see themselves as having a disorder.
3. Mental health professionals need to use the “Ask etiquette”.
4. Transparency in mental health practice – public policy declarations around SGD.
5. Accepting SGD as an occurrence in nature.
6. The use of the ‘Ask etiquette’ in mental health practices as a standard.
7. Good access to public SGD-friendly mental health services.
8. Formation of a humane association for mental health professionals working with SGD people.
9. Australian professional association for specialist health professionals working with SGD issues.
10. Mental health practitioners need to consider supporting family and friend relationships.

## **Legal**

1. The need for governments to implement the recommendations of the Australian Human Rights Commission’s Sex Files Report 2009, minus the setting up of a national board that reviews applications for change of legal status, which is seen by community groups as oppressive, unnecessary and singles out sex and/or gender diverse people as targets for state control.
2. Marital status should not be a relevant consideration as to whether or not a person can request a change in legal sex.
3. The definition of sex affirmation treatment should be broadened so that surgery is not the only criteria for a change in legal sex.
4. The evidentiary requirements for the legal recognition of sex should be relaxed by reducing the quantity of medical evidence required and making greater allowance for people to self-identify their sex.
5. The special needs of children and young people who wish to amend their documents and records should be considered.
6. A person over the age of 18 years should be able to choose to have an unspecified sex noted on documents and records.
7. Information on the process and criteria for the legal recognition of sex should be easily accessible and user-friendly.
8. Documents of identity and processes required for the legal recognition of sex should not reveal personal information about a person’s past identity in relation to sex.
9. Laws and processes for the legal recognition of sex should use empowering terminology.
10. Where possible, sex or gender should be removed from government forms and documents.
11. The federal government should consider the development of national guidelines concerning the collection of sex and gender information from individuals.
12. The federal government should take a leadership role in ensuring that there is a nationally consistent approach to the legal recognition of sex in accordance with the recommendations of the Sex Files Report, working cooperatively with state and territory governments through the Council of Australian Governments (COAG) process to amend their respective legislation and policies in line with the recommendations in this paper, particularly in relation to birth certificates.

13. The federal government should consider establishing a national office to advise and assist the public and federal government in relation to changing legal recognition of sex.
14. The SGD conference rejected recommendation 11 of the Sex File Report that proposed the setting up of national board. In the event that Recommendation 11 fails to result in sufficient support from state and territory governments, the federal government should consider legislation.
15. Amend the *Sex Discrimination Act 1984* (Cth) to ensure that the protection against marital status discrimination applies in the context of married persons seeking to amend their birth certificates, to effectively override the existing discrimination under state and territory births registration legislation
16. Establish a minimum national standard in respect of legal recognition of sex in documents and government records in line with the recommendations in this paper.
17. The federal government should harmonise policies, procedures and legislation relevant to the legal recognition of sex in federal documents and records.
18. The federal government should take immediate steps to ensure that all federal government departments and agencies provide clear and accessible information relevant to legal recognition of sex in documents and records and how those documents and records can be amended, such as by including a page on the department or agency's website dedicated to this topic.
19. The need for antidiscrimination laws that protect all sex and/or gender diverse people not just special interest groups such as trans or intersex. The areas of life for which discrimination may apply needs to be broadened, without religious exemption.
20. All laws regarding discrimination need to refer to protection on the grounds of sex and/or gender diversity.
21. The need to put in place laws to provide appropriate prison and hospital facilities that protect the needs of SGD groups whilst under care. Since there are around 200,000 people from SGD groups in Australia the government needs to put in place legal requirements for the facilitation of the SGD public.
22. The implementation of laws that protect children from alteration to their bodies for non-medical emergency reasons without their consent, including genital alteration, circumcision of any kind, and enforced hormone treatment against the child's will.
23. The legal requirement for health authorities to provide full Medicare rebates for sex and/or gender diverse people's care and in cases of extreme poverty. For those not in poverty Medicare rebates should be proportional in line with other sexual health services. Medication benefits schemes should reimburse patients for hormones in line with equivalent benefits for HRT and life-maintaining medications such as insulin. No administration of medications should be listed as cure for deviancy.
24. The implementation of laws to require all schools to teach about sex/and or gender diversity within the sex education curriculum.
25. The implementation of law changes that require health funds to reimburse for remedies to sex and/or gender dysphoria, including hormones and surgeries.
26. Government should not be legally allowed to fund discriminatory projects or practices that discriminate against SGD people.
27. The government needs to require the medical systems to fund sex and/or gender diversity needs in the Medicare system under sexual health services with state funding obligations.
28. State federal funding obligations should be uniform under the laws around sex and/or gender diverse people.

29. Government needs to endorse all marriage equality so that the legislation states that people can get married without mentioning their sex or gender.

### **Disability Services**

1. Faith based disability/ aged care/ welfare organisations should not be exempt from State/ Commonwealth discrimination laws.
2. SGD people should be able to choose their care provider and choose secular providers and not be forced into faith-based providers.
3. There needs to be sufficient secular services to choose from.
4. The state should adequately fund secular services.
5. Build into mandatory qualifications in disability SGD awareness/competencies.
6. Ongoing professional development training for disability services for SGD rights and awareness. Training for the disability sector is developed and delivered by the SGD community.
7. Care and support spaces for people with disability (and older people) should not be gendered.
8. People with disability have control of their services and service organisations.
9. Policies and procedures include SGD policies as a mandate. These to be an audit item by funders/ accreditation body.
10. Accreditation process /SGD star rating for disability/ aged care services.
11. Gender support agencies make themselves easier to find and access for people with disability.
12. SGD and disability sectors to actively network and link to work together for mutual clients.
13. Increase professionalisation of disability and SGD health care industries.
14. SGD spaces and housing to be accessible for people with disability.
15. People from SGD groups need to be able to access disability services in their home via outreach.

### **SGD Sex workers**

1. We support an inclusive Sex and/or Gender Diverse Day of Remembrance (Commonly been known as Trans Day of Remembrance) that explores the intersectionality of violence.
2. That research on sex workers needs to be directed and implemented in consultation with or by sex workers.
3. Research needs to reflect the complex needs of the participants involved, and not try to fit into one easy and neat conclusion.
4. The recognition and validation that sex work is a legitimate form of work.
5. The recognition that SGD sex workers are an important part of the SGD community.
6. Support and lobbying for the decriminalisation of sex work.
7. The condemnation of laws which criminalise youth of whatever age engaged in sex work.
8. The support of people who want to engage in sex work; to provide them with resources needed to work safely; to go where they work to offer these services.
9. We support peer-based education for all service providers.
10. In service delivery – counselling, street outreach, referrals – to have the courage to include full discussion on the working conditions of sex workers. This work would include prices, hours and places of work, specific working conditions, work options (different places to work, taking a break from sex work).

11. SGD sex workers support the strengthening of the relationship between the sex worker rights movement and the SGD rights movement in recognition of the interconnectedness and shared struggles.
12. Recognition that a lot of SGD people are sex workers.

### **Youth and children**

1. More access to SGD appropriate counselling through Skype (at home, school, community centres) and phone.
2. Setting up of state-based SGD organisations that are inclusive of youth with offices in rural and regional areas. With counselling, safe spaces etc.
3. Knowledge of SGD people and needs in the education of social workers, psychologists, counsellors and medical workers (nurses, doctors, etc).
4. Research into SGD mental health issues, with specific research into youth SGD mental health, including suicide.
5. Ending of non-consensual, non-medical emergency, surgery on intersex children and young people.
6. Advocacy and education of health professionals against the forced surgical intervention of intersex children.
7. Refuge system to be more accessible/safe for SGD young people, incorporating private rooms and education of staff.
8. Incorporating SGD into the curriculum of schools.
9. Education of family and child services on SGD people and issues.
10. Anti-discrimination to also cover children.

### **Partners and family**

1. A right to form a family for SGD people
2. Remove sex from birth certificates.
3. Anti-discrimination laws to cover families and friends of SGD people.
4. Birth certificates in all states should only show current lived situation, not past identities.
5. Identity should be less medicalised in not having to prove your sex or gender identity in ordinary everyday life.
6. Protection for the legal right to privacy where there is no requirement to show legal documents.
7. Organisations should train all staff dealing with families on difference between sex and gender and about sex and/or gender diversity.
8. The legal rights for SGD people to adopt.
9. The legal rights for paid surrogacy for SGD people both in Australia and abroad.
10. With regards to adoption, change the legislation from 'Heterosexual and homosexual' to simply 'people' because SGD people may not fit into either of those two.
11. The law should always put the best interests of the child first with regard to care and not discriminate against SGD parents.
12. Family law needs to be universally uniform under federal legislation with regard to family members from SGD groups.
13. Full recognition of SGD parents rights whether biological or not.
14. Right of the child born by surrogacy to SGD parents to know their biological parent to source their medical information.
15. People should have access to family tax benefit regardless of their sex and/or gender.

16. People should have access to all state benefits regardless of their sex and/or gender.

### **Religion and spirituality**

1. Spiritual communities should empower SGD communities and develop non-hierarchical structures ie Christians to remember that Jesus said to “lead by serving”.
2. Actively create safe spaces where people are accepted and able to explain what they need from the religious and spiritual communities.
3. Religious and spiritual communities should intentionally engage dialogue with SGD people.
4. Break down barriers between sacred and secular spaces with regard to SGD people.
5. Accept each SGD person from an SGD group as their own personal description of without offering any “should” statements.

### **Plenary Recommendations**

1. The use of Gay, Bisexual, Lesbian, Transgender, Intersex (GLBTI) as an umbrella acronym is offensive and disempowering. GLBTI confuses sexuality with sex and/or gender diversity and they are two different things. GLBTI also leaves out many different kinds of sex and/or gender diverse people.
2. Both GLB and SGD should be treated as separate fields. Gay, lesbian and bisexual (GLB) people should never speak on behalf of SGD groups.
3. Transgender and queer are also not acceptable as umbrella terms. Whilst some SGD groups may be queer-identified, many are not. Many SGD groups are not transgender.
4. No one person can be SGD. People may be diverse in their physiological sex and/or gender presentation so sex and/or gender diverse (SGD) people was endorsed to be the umbrella term to use when referring to differing groups of people experiencing of sex and/or gender diversity.
5. The conference, in endorsing marriage equality for all people, did not endorse the Labor party’s decision to offer MPs a conscience vote. Delegates believed that all political parties should be fully endorsing marriage equality for all adults regardless of sex and/or gender.

Recommendations compiled by conference convenor, Tracie O’Keefe, Australian Sex and Gender Diverse Alliance.

