



Submission to the Department of Health and Ageing
Review of the Accreditation Process for Residential Aged Care
17 July 2009

The National LGBT Health Alliance welcomes the Department of Health and Ageing's review of the accreditation process for residential aged care. We call on the Department to explicitly address the specific needs of lesbian, gay, bisexual, trans and other sexuality, sex and gender diverse people (LGBT) in residential aged care in its review.

Summary

LGBT Australians have specific experiences and needs in relation to aged care.

Research indicates that residential services too often fail to provide older LGBT Australians with quality care.

LGBT people and their relationships are invisible in aged care services, standards and accreditation processes, and the current system provides no mechanisms with which to identify and respond to gaps and discrimination in aged care services.

We call on the Department of Health and Ageing to use its accreditation system to ensure that all Australians experience high quality care and services in residential aged care homes. To do so it must explicitly address LGBT needs in its accreditation standards, in the processes implemented to audit those standards, in the mechanisms it utilises in relation to the compliance with accreditation standards, and in its aged care policy more broadly.

Specifically, we recommend that

- accreditation standards are put in place that explicitly address LGBT people's needs
- consideration of the sexual orientation, sex and gender identities of consumers is specifically included in the assessment of the current Accreditation Standards, in particular Standard 3: Resident Lifestyle
- self-assessment processes remain a requirement of regular re-accreditation processes, with modification to include input from all service stakeholders and to gather data on LGBT inclusion
- measures are put in place to ensure that assessors have the skills to assess the quality of care provided to LGBT consumers, in particular we recommend that
 - quality assessors demonstrate competence in LGBT issues as a prerequisite of their registration
 - quality assessors receive ongoing professional development in LGBT issues
 - LGBT quality assessors are proactively recruited
 - LGBT experts participate in assessment teams
- measures are put in place to ensure input from LGBT consumers and stakeholders, or organisational representatives, in the accreditation processes
- measures are put in place in assessment processes to ensure confidentiality and protect the privacy of consumers and staff
- the Department only provide residential care subsidies to residential care providers who are able to demonstrate that they are inclusive of LGBT people
- the Department, in consultation with LGBT and other relevant stakeholders, develops a plan to transition services to meet their obligations regarding the non-discriminatory treatment of same-sex relationships, and reports annually on progress
- a specific LGBT aged care strategy is developed and implemented
- the Department proactively engage with LGBT community organisations in the ongoing development and assessment of aged care policy and practice.

We would welcome the opportunity to provide you with further information.

About the National LGBT Health Alliance

The National LGBT Health Alliance is a newly formed alliance of organisations across Australia that provide programs, services and research to improve the health and wellbeing of lesbian, gay, bisexual and trans and other sexuality, sex and gender diverse people (LGBT).¹

The Alliance advocates on LGBT health issues at the national level, seeks commitment from all sides of politics to support and develop LGBT health through research and service development, and builds capacity among LGBT health organisations across the country.

The Alliance is governed by a Board of Directors, with representation from each state and territory. Key areas of work for the Alliance include ageing, the link between health and human rights, relationship recognition, alcohol, tobacco and other drugs, mental health, LGBT research, sexual health (including HIV and STIs), violence, and the health and wellbeing of people living with HIV.

LGBT People in Australia

Lesbian, gay, bisexual, trans and other sexuality, sex and gender diverse people (LGBT) make up a significant proportion of the Australian population. They live throughout Australia, come from all backgrounds, including Indigenous and culturally and linguistically diverse communities, and are members of every generation.

Evidence indicates that there are significant disparities in the health and wellbeing of Australians that relate to their sexual orientation, sex and gender identities. Sexuality, sex and gender diverse people tend to have disproportionately negative health outcomes in comparison with the rest of the population in several key areas, including general health ratings and mental health (see Smith et al. 2007, Pitts et al. 2006, Couch et al 2007). Research suggests that this is related to social determinants, such as experience of discrimination, which is also related to reduced access to appropriate health care and social services, such as quality residential aged care.

Homosexuality was criminalised throughout Australia until 1975, with the last state repealing its anti-sodomy laws in 1997. This experience of institutionalised discrimination on the basis of sexual orientation has had a significant impact on older generations of LGBT people, in particular those currently in aged care. However, there is ample evidence of homophobia, heterosexism and transphobia² continuing to impact on the wellbeing of sexuality, sex and gender diverse young Australians and of the health consequences of managing this impact (e.g. Hillier et al. 2005). Across generations, expectations of potential discrimination impact on interactions with service providers.

¹ We use the term trans here to be inclusive of all people who experience an incongruity between their self-identified gender and the gender assigned to them at birth. It encompasses those who identify as transgender, transsexual, genderqueer, sistergirls and other gender diverse people. LGBT is used here to refer to all sexuality, sex and gender diverse people, i.e. those whose sexual orientation, sex or gender identity differs from heterosexual, sex and gender norms.

² Homophobia is the aversion to homosexuality or those perceived to be homosexual, often resulting in discriminatory behaviour. Heterosexism is a predisposition to heterosexuality as 'normal', which is biased against other forms of sexual orientation. This is not the same as homophobia, but is rather the discrimination against non-heterosexual people due to cultural bias. It often occurs through omission and/or distortion of non-heterosexual realities. Similar to homophobia, transphobia is the fear of, or aversion to trans people, or those perceived to not fit accepted male-female gender norms. It can thus also impact on some intersex people (people born with any of a number of physical variations that means they do not fully fit expectations of either male or female physical sex).

LGBT People in Aged Care

While the 2008 same-sex relationships law reform removed discrimination against same-sex couples in aged care legislation (see Human Rights and Equal Opportunities Commission 2007a: Ch. 14), there is evidence of other forms of serious discrimination of LGBT people occurring in all levels of aged care, from organisational policies to abuse by staff and other residents (Barrett 2008; Human Rights and Equal Opportunity Commission 2007b).

Few consumers 'out' themselves (disclose that they are LGBT) voluntarily to their aged care provider for fear of experiencing discrimination. This is attributed in part to past experiences of criminalisation, violence and prejudice. It also relates to current discrimination and hetero-normative practice in aged care, that is practice that assumes heterosexuality and gender conformity and allows little scope for the perspectives and experiences of those who are 'other'.

This situation is compounded by aged care providers generally reducing sexuality and even gender identity to sexual activity rather than conceiving of it as a component of identity with many facets (Harrison 2001). The result is a 'cycle of invisibility' under the guise of 'respect for privacy', in which the fears of consumers are reinforced by the failure of practitioners to understand the significance of sexual orientation, sex and gender identity, and the perpetuation of an exclusion of LGBT ageing concerns (Harrison 2001).

Thus, for example, same-sex partners are sometimes not recognised or acknowledged, and the significance of friends underestimated, resulting not only in distress but also in a loss of support for the consumer. Trans people may face specific health issues that can be overseen, and may have difficulty accessing hormones, appropriate clothing, etc. (Barrett 2008).

At the same time aged care services are increasingly being accessed by consumers who fought hard for recognition and are accustomed to being not only visible as lesbian, gay, or trans, but also to having a range of targeted services and cultural opportunities available to them. This too poses a challenge for services unaccustomed to responding in a culturally appropriate way to LGBT consumers (Harrison 2006).

In its submission to the same sex relationships inquiry, the Australian Medical Association argued that "[t]here is a need to recognise sexual and gender diversity within the aged care sector as this lack of recognition means that the health needs of many older people are not being adequately addressed with culturally appropriate care" (Human Rights and Equal Opportunities Commission 2007a).

Barrett's 2008 study of the experiences of LGBT seniors in Victorian aged care services identified eight core issues that impact negatively on the provision of appropriate, quality care for LGBT aged care consumers:

- The historical impact of discrimination
- Invisibility as an impact of current discrimination
- Identity concealment
- Inadvertent visibility
- Dementia
- Barriers to sexual and cultural expression
- Inadequate standards of care
- Lack of a safe, LGBT-friendly environment.

Most study participants advocated for LGBT-specific aged care services. This can be seen as an indication that they felt existing aged care providers were failing to fulfil their duty of care and provide high quality services.

Gay Men Living with HIV in Aged Care

Gay men with HIV face specific issues in aged care, and are increasingly likely to be seeking services, in both metropolitan and regional areas. HIV+ people are living longer as medical treatments improve. At the same time there is frequently an earlier onset of ageing for people living with HIV. There is also increasing evidence of a cognitive impact of living with HIV over a long period of time, so that there may potentially be HIV+ people with dementia living in residential aged care.

Aged care workers attitudes to people with HIV tend to reflect the lack of awareness and consideration of HIV by the broader community. Stigma around HIV/AIDS interplays with homophobia. In residential care we have particular concern about ungrounded fears of transmission and the impact of this on the attitudes and behaviours of health care and other workers towards consumers, as well as those of other residents and their families.

LGBT Exclusion in Aged Care Policy and Processes

The invisibility of LGBT people and their needs in aged care services is also evident in aged care policy, and in the field of gerontology. They are invisible in aged care accreditation standards and processes.

Although many aged care initiatives aim to promote the health and wellbeing of *all* people, assumptions of heterosexuality and mainstream understandings of what it means to be male or female on the part of providers too often results in the exclusion of LGBT people and their specific needs.

The inclusion of diversity requires proactive efforts to reach marginalised groups and provide them with appropriate services.

Prior to the 2007 election the Australian Labour Party (ALP) acknowledged this situation and made a commitment to address it by improving the accreditation system:

“Labor understands the specific needs of LGBT older people using aged care services. Labor has committed to modernise the quality and accreditation system used in aged care. Within that review we will examine how well the existing quality systems assesses whether providers meet the needs of LGBT people and other specific groups such as culturally and linguistically diverse communities and Aboriginal and Torres Strait Islander people” (ALP in National GLBT Health Alliance 2007)

At a forum hosted by the Human Rights Commission in Sydney on 8 October 2008 a representative of the Department of Health and Ageing advised that the Department would be reviewing aged care accreditation and regulations to ensure they were consistent with the spirit of the same-sex relationships law reform.

The National LGBT Health Alliance calls on the Department to take steps to fulfil these commitments within its current review of the accreditation process for residential aged care.

We recommend that the Department of Health and Ageing address the provision of quality aged care to LGBT people on three levels:

1. Quality standards
2. Processes of accreditation
3. The broader policy and practice of aged care.

While acknowledging that the terms of reference of this review relate to accreditation processes, we argue that these processes depend on the quality standards used and the context in which quality can be fostered. Accreditation processes therefore need to be considered in relation to the other two levels.

Quality Standards

The Accreditation Standards and the expected outcomes associated with them define understandings and expectations of quality in residential aged care. As the criteria that determine eligibility for Government residential care subsidies, they have significant influence over standards of care provided. The current Accreditation Standards fail to address sexuality, sex or gender identity in any way. They also do not address the attitudes of service providers towards LGBT people or members of other marginalised groups.

Given the pervasive invisibility of LGBT people and their needs in aged care, it is crucial that the Accreditation Standards explicitly require residential care providers to demonstrate inclusive practice.

Indicators of inclusive practice, are, for example

- explicit policies and procedures and evidence of their implementation, including both policy providing protection from discrimination on the grounds of HIV status, sexual orientation, sex and gender identity, and proactively inclusive policies, such as use of gender neutral language
- “whole of Staff”, Board and executive staff training in
 - Sexuality, sex and gender diversity issues
 - anti-discrimination obligations
 - HIV awareness, including knowledge of transmission, universal infection control, general care needs
 - prevention of bullying in the workplace
- recognition of relationships, in their diverse forms
- active management of discrimination by other parties, such as family members and residents, in residential care facilities
- provision of culturally appropriate services
- mechanisms to ensure confidentiality in all procedures, processes and policies.

Sexuality, sex and gender identity are increasingly understood as cultural dimensions and should be valued and fostered in the same way as other aspects of an individual's cultural and spiritual life. Cultural competence is required to work appropriately with LGBT people. Thus, while we strongly advocate for an LGBT-specific standard of inclusive practice, we also consider that Accreditation Standard 3: Resident Lifestyle in particular already requires consideration of these factors in accreditation processes.

It is, however, not usual practice for LGBT issues to be specifically addressed in current accreditation processes and they are not addressed in any accreditation materials that we are aware of. Measures must be taken to ensure that LGBT issues are taken into account when assessing existing (and future) standards, including making it an explicit requirement of both self-assessment and auditing.

We understand that the Accreditation Standards will be reviewed at a later date, and would appreciate the opportunity to provide you with more detailed comment at that time.

Recommendations:

- Put in place accreditation standards that explicitly address LGBT people's needs
- Include specific consideration of the sexual orientation, sex and gender identity of consumers in the assessment of the current Accreditation Standards, in particular Standard 3: Resident Lifestyle
- Only provide residential care subsidies to residential care providers who are able to demonstrate that they are inclusive of LGBT people.

Accreditation Processes

Self-Assessment

We support a requirement for providers to provide detailed self-assessment data as part of a regular application for re-accreditation, in addition to accreditation audits. Rather than a tiresome formality, such self-reflective processes can be a fundamental part of quality development and assurance processes.

The data gathered in self-assessment processes must include information on measures in place to promote the inclusion of LGBT consumers. Given the invisibility of LGBT issues in aged care, the provision of tools with which to raise these issues and assess the extent to which service providers are aware of and responsive to LGBT issues would be valuable.

We suggest that the self-assessment be informed by whole of organisation input. For example simple, anonymous online surveys would provide staff and consumers an opportunity to comment on whether the service is inclusive of LGBT people and issues. Confirmation that such assessment tools had been implemented could be made a requirement of the application, and some results could be included in the self-assessment documents submitted. More importantly, they would alert management to problems so that they could be responded to in advance of accreditation audits.

Recommendation:

- Require self-assessment as part of regular re-accreditation processes, with modification to include input from a range of stakeholders and to gather data on LGBT inclusion.

Skills of Quality Assessors

The concerns of LGBT consumers need to be ascertained and dealt with sensitively if an accreditation process is to accurately assess the quality of care. Quality assessors therefore require specific competence in LGBT issues to fulfil their task.

This skill set includes diversity competence: The understanding of processes of exclusion and the ability to work respectfully and sensitively with marginalised populations, including LGBT, Indigenous, culturally and linguistically diverse and people with disabilities. It also includes knowledge of the problems faced by people in aged care in relation to of their sexual orientation, sex or gender identity and knowledge of antidiscrimination obligations.

These competencies should be a prerequisite for registration of assessors, but, together with other specific skill sets, such as HIV awareness, also need to be part of their orientation program and then refreshed and developed as part of ongoing professional development.

We agree with the discussion paper that "quality assessors from different backgrounds can bring different perspectives to the assessment process" (para. 45) and suggest that the targeted recruitment of LGBT quality assessors would be beneficial. Strategies include, for example, advertising in LGBT media and circulating information via LGBT organisations.

We support the strategy of contracting 'expert members', who are not quality assessors, to participate on an assessment team, particularly for expertise in LGBT issues where such expertise is not yet in the team or where consumers and carers do not have trust in accreditation bodies. LGBT community organisations would provide suitable experts.

We consider that standard conflict of interest declaration processes and transparent selection criteria should be a sufficient safeguard to maintain the integrity of the assessment process.

Recommendations:

- Require quality assessors to demonstrate competence in LGBT issues as a prerequisite of their registration
- Require quality assessors to receive ongoing professional development in LGBT issues
- Proactively recruit LGBT quality assessors
- Recruit expert representatives from LGBT community organisations to participate in assessment teams.

Consumer Focus

We strongly support a consumer focus in accreditation processes and agree that mechanisms to promote input from a wide range of consumers should be strengthened. LGBT participation in the accreditation process is currently likely to be minimal.

We have already noted the potential for the input of residents and their friends and families into self-assessment processes. We suggest that information on site audits disseminated in newsletters or letters to residents should include assessor contact details so that people who fear repercussions can raise their concerns directly and confidentially. Consultation with partners and others should be possible off site, to maximise convenience and thus input, but also to provide a safe environment in which to raise sensitive concerns.

Given their particular cultural needs, we suggest that LGBT residents should be targeted in this process, for example by endeavouring to include at least one LGBT resident and their significant others in the consultation. This may not always be possible as LGBT people will often not be identifiable. The potential for consumers to raise issues relating to sexuality, sex or gender identity will be increased if all consultations occur in a private setting, with confidentiality ensured and if the quality assessor has the skills to build trust. Having assessors who can be identified as LGBT is helpful.

Nevertheless until aged care services provide safer environments for LGBT consumers, it will remain a challenge to get their input. We therefore recommend that assessors also seek input from LGBT organisational representatives in accreditation processes.

Recommendation:

- Put in place measures are put in place to ensure input from LGBT consumers and stakeholders, or LGBT organisational representatives, in accreditation processes

Communication with Residents about Non-Compliance / Confidentiality of Sources

The significant – and too often justified - concerns many LGBT consumers have in relation to visibility and potential discrimination impact on their ability to participate in accreditation processes. This also applies to partners, other representatives, former residents and staff. We therefore support the suggestion that confidentiality protections provided in the Aged Care Principles be extended to all persons who provide information to the accreditation body in order to increase the potential for feedback.

The dependence of LGBT consumers on the aged care provider makes them vulnerable and particular care must be taken to ensure the confidentiality of all sources. This applies not only to consultation processes but also to communication with residents, staff and management about non-compliance issues. The inadvertent disclosure of a person's sexual orientation or gender identity can have a serious detrimental impact on the care they receive, their safety and their mental health.

Recommendations:

- measures are put in place in assessment processes to ensure confidentiality and protect the privacy of consumers and staff

The Context of Aged Care Policy and Practice

Accreditation processes occur in a broader context of aged care policy and practice. Their purpose is to verify quality practice. Thus, measures are required which will facilitate quality practice in relation to LGBT people and raise understanding of the specific issues involved among aged care providers.

As noted above, in October 2008 a representative of the Department of Health and Ageing advised that the Department would be reviewing aged care accreditation and regulations to ensure they were consistent with the spirit of the same-sex relationships law reform. We look forward to learning the findings of this review. We suggest that following on from this, the Department, in consultation with LGBT and other relevant stakeholders, develops a plan to transition services to meet their new obligations and amend reporting requirements to enable the Department to annually report on progress in transition and barriers to progress.

Further, we suggest that this would be best addressed in the framework of a specific LGBT Aged Care Strategy. The current Government has previously acknowledged the specific needs of LGBT, Indigenous and culturally and linguistically diverse populations (National GLBT Health Alliance 2007). The need for targeted approaches is reflected in the Aboriginal and Torres Strait Islander Aged Care Strategy and the Ethnic Aged Care Framework. Similarly, an LGBT Aged Care Strategy is required.

An LGBT Aged Care Strategy should include

- the development of funding programs and associated guidelines
- training and education initiatives
- funding for research
- direct service provision through programs
- community-based advocacy to LGBT aged care consumers.

Recommendation:

- The Department should, in consultation with LGBT and other relevant stakeholders, develop a plan to transition services to meet their obligations regarding the non-discriminatory treatment of same-sex relationships, and report annually on progress
- The Government should initiate a specific LGBT aged care strategy to be administered through the Department of Health and Ageing

LGBT Engagement

Not only aged care assessors but also Government agencies require input from the whole community to assess and promote quality in aged care delivery and policy development. In order to develop an aged care strategy that improves the wellbeing of LGBT people, and indeed ageing policy and practice more generally, the Department needs to proactively engage with LGBT communities and community organisations. The National LGBT Health Alliance would welcome the opportunity to support the Department to work with LGBT experts in aged care.

The funding of designated positions in LGBT community organisations would provide capacity for LGBT issues to better flow into Government policy development.

Recommendation:

- The Department should proactively engage with LGBT community organisations in the ongoing development and assessment of aged care policy and practice

References

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Developed by the National LGBT Health Alliance in consultation with other LGBT community organisations and individuals.

The views in this paper are those of the National LGBT Health Alliance, and do not necessarily represent those of the organisations or individuals that contributed to the paper.

Foundation Members of the National LGBT Health Alliance:

- Gay and Lesbian Health Victoria (GLHV)
- Queensland Association for Healthy Communities (QAHC)
- Victorian AIDS Council/Gay Men's Health Centre (VAC/GMHC)
- Western Australian AIDS Council (WAAC)
- AIDS Council of New South Wales (ACON)
- AIDS Council of South Australia (ACSA)
- AIDS Action Council of the ACT (AACACT)
- Northern Territory AIDS and Hepatitis Council (NTAHC)
- Tasmanian Council on AIDS, Hepatitis & Related Conditions (TasCAHRD)
- Australian Federation of AIDS Organisations (AFAO)