
March 21st 2011

Response to the Productivity Commission Draft Report: *Caring for Older Australians*

About Freedom! Gender Identity Association Inc.

Freedom! Gender Identity Association Inc is a community support group whose aim is to promote the welfare of sex and/or gender diverse individuals, their families, friends and allies, in Queensland. The group was established just two years ago and has recently become incorporated. It is totally unfunded and relies on the contributions of members and friends for all its expenses.

Our members include Trans women and Trans men, people who identify as genderqueer, bi-gendered and a-gendered, Crossdressers, and Drag performers. They range in age from late teens to people in their 80s, with a large proportion over the age of 50.

This submission has been prepared by Sujay Kentlyn, a Sociologist at the University of Queensland, with contributions from the members of Freedom!, and in association with the National LGBTI Health Alliance. In 2010 I was involved in a research project with Associate Professor Mark Hughes, called "*Diversity and Older People's Care Networks*". Its purpose was to look at the diversity of the care networks of lesbian and gay people aged 60 and over, and how care providers respond to this person's sexual identity. My role involved conducting interviews with older lesbian and gay people, some of whom were also sex and/or gender diverse, as well as their paid and unpaid carers.

As a matter of convenience in this submission, the terms 'sex and/or gender diverse', 'Transgender', 'Transsexual', and 'Trans' will be used largely interchangeably. It should be understood, however, that there are many diverse identities under the Trans 'umbrella', and many individuals would have little if any sympathy for these terms.

Productivity Commission Draft Report: *Caring for Older Australians*

Freedom! Gender Identity Association Inc welcomes the Draft Report and acknowledges its careful and comprehensive examination of the issues impacting on the care of Australian seniors. In particular, we commend the Commission for including

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LGBTI people in arguing the need for the aged care sector to better respond to the diversity of the older population.

As a member of the National LGBTI Health Alliance, we fully support the Alliance's original submission. **As Freedom!'s role is to advocate for sex and/or gender diverse people, we would like to highlight and amplify some of the points made in the Alliance's submission,** and we join in urging that the following be included as recommendations in the Commission's Final Report:

1. Inclusion of **sex and/or gender diverse seniors** in the Report Recommendations and Summary of Proposals
2. Recognition of **sex and/or gender diverse seniors** as a special needs group in the Allocation Principles 1997
3. **Recognition of the diverse needs of people within LGBTI communities**
4. Ensuring **older sex and/or gender diverse people** are not subsumed under the category of 'culturally and linguistically diverse'
5. Establishing a **National LGBTI Aged Care Plan**
6. Establishing a **National LGBTI Aged Care Advisory Council**
7. Resourcing of **Trans community organisations** to provide services to **Trans seniors**
8. Development and resourcing of **partnerships between Trans organisations and aged care providers**
9. A national rollout of **Trans training curricula** in the residential and community care sectors
10. Expansion of funding for CACP, EACH and EACH-D **packages targeting sex and/or gender diverse seniors**
11. Introduction of Federal anti-discrimination legislation that includes **protections for sex and/or gender diverse people** receiving aged care and removal of exemptions from state legislation
12. Funding LGBTI organisations, such as **Freedom! Gender Identity Association Inc.** and the National LGBTI Health Alliance, to engage in local as well as national action on **Trans ageing issues**
13. Acknowledgment of **the needs and rights of sex and/or gender diverse people within all Government aged care documents**
14. Modification to assessment and data collection instruments (e.g. as used by the Gateway Agency) **to allow for diversity in gender,** sexual identity and relationship status

1. Inclusion of sex and/or gender diverse seniors in the Report Recommendations and Summary of Proposals

While Trans people were acknowledged in the Draft Report as part of GLBTI, we were concerned that reference to this group was absent from the draft recommendations. We strongly encourage the Commission to include specific reference to Trans seniors in Recommendations 9.1 and 9.2, and to expand reference to Trans seniors in the Summary of Proposals (reflecting the expansion of recommendations highlighted below). **In addition, although the acronym 'GLBTI' appeared often, there was no discussion of how the needs and interests of sex and/or gender diverse individuals often differ fundamentally from those of Lesbian, Gay and Bisexual populations. More attention needs to be paid to this group.**

2. Recognition of sex and/or gender diverse seniors as a special needs group in the Allocation Principles 1997

Recognition within the Draft Report that older LGBTI people have particular needs and require culturally competent practice is an important message to the aged care sector and to Government. However, we believe that the Commission needs to go further and make a specific recommendation that **older sex and/or gender diverse people be formally acknowledged through an amendment to the Allocation Principles 1997 as a special needs group.** This would acknowledge that like other groups, such as care leavers, older LGBTI people have special needs arising from a history of fear, persecution, discrimination, violence and abuse (as documented in the Alliance's original submission). **This applies particularly to Transgender and Transexual people, who have a documented history of experiencing extreme violence and abuse.** This history acts as a powerful barrier to older Trans people accessing services and thus to their ability to age well. Formal recognition by Government of their special needs status will enhance the targeting of services, make providers accountable for the delivery of culturally competent services, and go some way to redress the past and present fears of being outed, having one's privacy invaded, and being discriminated against and abused. **Trans people, due to their need to "pass" within the general population in order to avoid violence and abuse, have been particularly "invisible" and marginalised within communities of care.**

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3. Recognition of the diverse needs of people within the LGBTI community

The use of the term 'GLBTI' by the Commission in the Draft Report is important as this acknowledges the diversity of, and coalitions within, our community. In this spirit, we recommend that the Commission change the wording of the Key Points on p.269 and in the Summary of Draft Proposals on p. LXI from 'gay and lesbian' to GLBTI. Having said this, it is important to recognise the unique health and social needs that different people in the LGBTI community may have. We would like the Commission to acknowledge this in different parts of the Final Report. **In section 9.6 of Chapter 9 it would be valuable to note the high rates of poverty and disadvantage among transgender people.** We have

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particular concerns that lower socio-economic groups may not have good access to LGBTI culturally sensitive services. For example, church and charity run organisations, which may be least able to afford the expansion of staff training, will be more likely to offer lower socio-economic residential care places under bed trading and the lifting of limits on bed numbers. **Sex and/or gender diverse people have had particular difficulty in securing and maintaining an attachment to the labour market and thus are over-represented in lower socio-economic groups. Many also experience multiple layers of disadvantage, in terms of mental health issues, lack of housing, family breakdown, social and geographical isolation, and disability, as well as unemployment. Furthermore, some sex and/or gender diverse people have suffered a degree of marginalisation and discrimination within so-called GLBT communities in the past, and even within trans-identified groups. The highly diverse needs of this group should be recognised and addressed.**

4. Ensuring older sex and/or gender diverse people are not subsumed under the category of 'culturally and linguistically diverse'

While applauding the Commission's recognition of the cultural status of older LGBTI people, we recommend that, in the Final Report, the Commission more clearly distinguish between CALD and LGBTI groups. While there are some similarities in terms of a lack of recognition, the experiences and needs of the groups cannot be conflated. Bringing these two groups together under the heading of 'People from culturally and linguistically diverse backgrounds' potentially makes LGBTI people invisible (e.g. in the Contents page and in Draft Recommendations 9.1 and 9.2). There are other places within the Draft Report where acknowledgement of the cultural needs of older people is made (e.g. p. XXIV, p. XXIX - Figure 3, p. XL, p. XLIII, p. 36). While the Commission may intend that these references be inclusive of LGBTI people, it is likely, given the commonplace usage of the term culture to refer to ethnicity, that many readers will assume that this refers to CALD people only. Consequently we recommend that in the Final Report the Commission not subsume older LGBTI people under section 9.2 of Chapter 9, but locate it within its own section. We also recommend that the Commission amend all other references to cultural needs and cultural competence throughout the report so that it is clear that this refers both to LGBTI and CALD people. **This is particularly important for Trans people from CALD backgrounds, who often experience rejection and even persecution from their culture of origin, but may not readily assimilate into existing LGBTI communities.**

5. Establishing a National LGBTI Aged Care Plan

We support the recommendation in the original submission of the National LGBTI Health Alliance for a National LGBTI Aged Care Plan, similar to that developed for other special needs groups (e.g. people with dementia and ATSI people). We encourage the Commission to take this up as a key recommendation. This should be a strategic plan with specified goals, guidelines and targets to be achieved over a 5-year period. We recommend that it include targeted funding for education and training, direct care, research, policy development, advocacy and other initiatives. **Research into sex and/or gender diverse populations is particularly needed, as this group has traditionally been marginalised within so-called LGBTI communities, and little**

research into their unique needs and challenges has been conducted so far. This plan should be developed in partnership with Trans people and communities. Older Trans people need to be specifically included in this process. Similar to the ATSI Aged Care Plan, DoHA should be responsible for implementing the plan. This plan will provide a practical basis for the redressing of the history of discrimination faced by older sex and/or gender diverse people.

6. Establishing a National LGBTI Aged Care Advisory Council

We also recommend that the Federal government establish a National LGBTI Aged Care Advisory Council to Minister for Ageing, Mark Butler, to oversee the process of development and implementation of the plan and to advise him on matters related to LGBTI aged care. This is particularly important given the unique and only recently recognised needs of this emerging group. Future planning for the needs of this group is becoming increasingly significant as the baby boomers age out of the closet. **Again, specifically targeted Trans participation is vital, as their needs and issues are not well represented within existing Lesbian and Gay groups.**

7. Resourcing of LGBTI community organisations to provide services to LGBTI seniors

There is an extensive network of LGBTI community organisations throughout Australia which are well placed to provide both direct and indirect services to LGBTI older people. Research on LGBTI ageing demonstrates that LGBTI seniors often prefer to access information and receive services via the community organisations with which they are familiar and with which they feel able to disclose their identity and relationship status. Thus these community organisations provide value-added services for LGBTI seniors. As well as direct services, this may include information provision, referral and case coordination. They are also very well placed to provide services that require specific knowledge of and expertise in the needs of the LGBTI community – such as strategies to reduce isolation or provide advocacy. **While there are some funded LGBTI organisations in Queensland, such as the Queensland Association for Healthy Communities (QAHC) and Open Doors Youth Service, there is no funding at present for any of the organisations serving sex and/or gender diverse communities. Freedom! relies entirely on the generosity in terms of time and resources of its members, but we are distressed by our limitations in this regard, and thus the number of Trans people who completely lack any kind of support. Resourcing of Trans-specific organisations should be an urgent priority.**

8. Development and resourcing of partnerships between LGBTI organisations and aged care providers

The effectiveness of these community organisations can be augmented by working in collaboration with other agencies, and we welcome the Commission's acknowledgement of the need for partnerships in the delivery of LGBTI aged care. There

are some excellent recent examples of where these have worked to good effect. These include partnerships between ACON and the Aged and Community Services Association (NSW/ACT) and between Care Connect and QAHC in Queensland. Many LGBTI organisations have expressed a desire to expand their services to meet the needs of LGBTI seniors and they are well placed to work alongside aged care providers to this end. LGBTI community organisations bring added value by being (a) an advocate for the needs of LGBTI older people, (b) a resource and support for mainstream organisations on LGBTI issues, and (c) a means of direct service delivery to LGBTI people (especially on a peer basis). We recommend that the Final Report includes a formal recommendation for the development and resourcing of such partnerships.

9. A national rollout of LGBTI training curricula in the residential and community care sectors

These partnerships have been crucial in the development and delivery of training to the aged care sector to promote LGBTI cultural competence among residential and community care providers. Thus we urge the Commission to include in the draft report a formal recommendation for a national rollout of LGBTI training curricula in both the residential and community care sectors. **Such training must fully include the issues and needs of sex and/or gender diverse individuals. We congratulate the Queensland Association for Healthy Communities for developing such a training package in consultation with Queensland Trans people, and urge that it or something similar be adopted and promoted nation-wide.**

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10. Expansion of funding for CACP, EACH and EACH-D packages targeting LGBTI seniors

Recently Care Connect (in partnership with QAHC) was funded to deliver CACP, EACH and EACH-D packages to the LGBTI community in south east Queensland. This was a significant milestone in the recognition of the unique needs of LGBTI people. We urge the Commission to recommend that such packages continue to be funded across Australia, in line with the allocations made to other special needs groups (p.26). **Sufficient funding must be made available to aggressively market these packages to Trans, as well as Lesbian, Gay, Bisexual and Intersex people, in order to overcome their fear and suspicion of government agencies as a result of their often very negative histories with such agencies. Similarly, in evaluating the implementation of such packages, the long view should be taken – uptake will take time.**

11. Introduction of Federal anti-discrimination legislation that includes protections for LGBTI people receiving aged care and removal of exemptions from state legislation

Freedom! Gender Identity Association Inc. advocates for the introduction of Federal anti-discrimination legislation so that LGBTI people are protected at Federal level in relation to aged care, and we made a submission to the Australian

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Human Rights Commission Consultation on this matter in 2010. We also recommend the removal of exemptions from anti-discrimination legislation at state levels, so that the aged care sector, including charities, are not given a green light to discriminate, leaving our elders in fear and hiding.

In my interviews with LGBT seniors receiving services from faith-based organisations, such as *Spiritus*, I was struck by their fear of losing services or experiencing persecution if their sexuality or gender diversity became known. Faith-based organisations that receive government funding should be required to have explicit non-discrimination policies in relation to LGBTI clients, to have these prominently displayed on websites and promotional material, and to ensure that all clients are aware of these. This also might help them to discover that, contrary to their current suppositions, they actually do have LGBTI clients.

12. Funding LGBTI organisations, such as Freedom! Gender Identity Association Inc. and the National LGBTI Health Alliance, to engage in local and national action on LGBTI ageing issues and coordinate national advocacy

We welcome the Commission's support for independent advocacy organisations as part of the quality control and regulatory environment for aged care. **We encourage the Commission to recommend that resources be directed to Trans community organisations to provide formal advocacy services, information and referral services and to coordinate buddy support programs for sex and/or gender diverse people.** We also recommend that the National LGBTI Health Alliance be funded to facilitate national action on LGBTI ageing within LGBTI communities and coordinate national advocacy.

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13. Acknowledgment of the needs and rights of LGBTI people within all Government aged care documents

We also urge the Commission to recommend the inclusion of sex and/or gender diverse people in the National Aged Care Advocacy program guidelines. Specific mention of sex and gender identity, as well as sexual orientation, needs to be included in all user rights documents, including the Charter of Residents' Rights. All Government documents should specifically refer to Trans seniors and not subsume them under terms such as cultural diversity or diverse lifestyles.

14. Modification to assessment and data collection instruments (e.g. as used by the Gateway Agency) to allow for diversity in gender, sexual identity, and relationship status

A major barrier to culturally competent practice with older LGBTI people, and researchers' capacity to study this population, is their general invisibility in the aged care sector. As has been repeatedly demonstrated in research, most aged care providers do not know of any LGBTI clients. As the Commission recognised in the

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Draft Report it is difficult to identify the number and distribution of older LGBTI people in Australia. This is a direct product of the failure of statutory authorities to record data on gender and sexual diversity. **While concerns about privacy are inevitably a feature of the disclosure and identification of sex and/or gender diverse identities, the current systems of recording, assessment and data collection render Trans people invisible.** The most obvious way this happens is by the continuing use of forms that use out-dated gender status categories and **that do not allow for the identification of transgender identities.** Freedom! Gender Identity Association Inc encourages the Commission to recommend that assessment and data collection mechanisms provide for a greater range of options in identifying gender identity. Some particular difficulties in this respect are that Trans people who are married are required to divorce before their sex can be changed on their birth certificate; others either are medically unable or simply cannot afford the surgeries that are required before a change of sex can be registered. Thus identity documents may be very much at odds with the client's presenting gender. Implementation of the recommendations of the Australian Human Rights Commission's 2009 "Sex Files" report would address such problems. In the meantime, more flexible assessment and data collection mechanisms would be of assistance.

Space on forms should also be available for people to state what aspects of their background and identity are important for service providers to know about. This would enable not just sex and/or gender diverse seniors, but all older people to represent themselves in their own way. **Specifically we recommend that the aims of the assessment tools highlighted on pp. 235-6 include the need to have diverse gender identities recognised.** It is essential that the tools developed for the Gateway Agency are appropriate and specific to Trans people and that Trans people and community organisations are involved in developing these instruments.

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Related documents

In addition to the documents listed in the National LGBTI Health Alliance Submission, the following documents are relevant to the points raised in this Response to the Draft Report:

Freedom! Gender Identity Association Inc. (2010) *Comments to the Consultation on protection from discrimination on the basis of sexual orientation, sex and/or gender identity.*
http://www.hreoc.gov.au/human_rights/lgbti/lgbticonsult/comments.html

Australian Human Rights Commission (2009) *Sex Files: The Legal Recognition of Sex in documents and Government Records.*
http://www.hreoc.gov.au/genderdiversity/sex_files2009.html

Couch, Murray, Marian Pitts, Hunter Mulcare, Samantha Croy, Anne Mitchell and Sunil Patel (2007) *Tranznation: A report on the health and wellbeing of transgender people in Australia and New Zealand.* Australian Research Centre in Sex, Health and Society, Melbourne.
http://www.latrobe.edu.au/arcschs/downloads/arcschs-research-publications/Tranznation_Report.pdf

