The Royal Australian & New Zealand College of Psychiatrists
Tu Te Akaaka Roa
New Zealand National Office

Your Health in Mind
Hauora hinengaro Manatuhia

Social Services and Community Committee

Legislation (Definitions of Woman and Man) Amendment Bill

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Excellence and equity in the provision of mental healthcare

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About the RANZCP

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) is the principal organisation representing the medical specialty of psychiatry in Aotearoa New Zealand and Australia. As a bi-national college, the RANZCP has more than 9,000 members including over 6,500 qualified psychiatrists and more than 2,500 members in training and is guided on policy matters by expert committees composed of psychiatrists and community members with a breadth of academic, clinical, and service-delivery expertise in mental health.

Tū Te Akaaka Roa, the RANZCP New Zealand National Office, provides this submission on behalf of the College's New Zealand membership, based on peer-reviewed evidence, published in our Position Statements, and the collective expertise and experience of our members.

Our Position

The RANZCP opposes this Bill and urges Select Committee to recommend that this Bill not proceed.

The RANZCP's position on the mental health of LGBTIQ+ people, including trans and gender diverse (TGD) people, non-binary people, and people with innate variations of sex characteristics, is grounded in peer-reviewed evidence and published in our Position Statements. It is from that clinical evidence base that we make this submission.

Trans and gender diverse people already experience significantly poorer mental health outcomes than the general population. The evidence is clear that stigma and discrimination are primary drivers of this disparity. This Bill is a legislative act of stigma. It will make things worse, in the specific ways set out below.

The Bill is so poorly drafted that it creates serious unintended harms for people well beyond its stated purpose — including potentially removing abortion access for biological females under 20 years of age.

This compounding mental health harm, and the unintended removal of abortion access for under-20s, are both foreseeable and avoidable. Neither is justified by any demonstrated legal need.

This Bill Will Worsen Mental Health Outcomes for Trans and Gender Diverse People

The evidence on TGD mental health

The RANZCP's Position Statement 103 (PS 103: The role of psychiatrists in working with Trans and Gender Diverse people, December 2023) establishes the clinical baseline clearly: TGD people are not mentally unwell because of who they are. Being trans or gender diverse is not a mental health condition. However, TGD people do experience significant mental health consequences of living in a world that stigmatises and discriminates against them. PS 103 confirms that TGD people experience higher rates of mental illness than the general population, and that stigma, discrimination, trauma, abuse, and assault are the primary drivers of this disparity. TGD adolescents in particular experience higher rates of suicidal ideation, life-threatening behaviour, and self-harm than their non-TGD peers.

Position Statement 83 (PS#83: Recognising and addressing the mental health needs of the LGBTIQ+ population, August 2021) adds Aotearoa-specific data: in a New Zealand survey of trans and non-binary people, over a third had attempted suicide in their lifetime, and 12% had attempted suicide in the past year. These are not marginal statistics. They describe a situation that is in large part driven by social and legislative environments that fail to affirm and protect TGD people's identities and dignity.

The Bill will stigmatise vulnerable people

Legislation does not merely regulate behaviour. It shapes culture. It tells communities, institutions, and individuals what the state considers normal, legitimate, and worthy of protection, and by exclusion, what it does not. This Bill will not exist in a vacuum. It will be cited. It will be used. In schools, in workplaces, in healthcare settings, in whānau conversations, and in the minds of people who already hold prejudice against TGD and intersex people, this Bill will function as social permission — a signal from Parliament that the erasure of these identities is not just acceptable but legally grounded.

For people who are already among the most vulnerable in Aotearoa, that signal is not abstract. PS 83 documents that medical professionals not understanding their identity is one of the most common concerns for TGD people accessing healthcare, and that, as a result, many are too fearful to disclose their identity in clinical settings, and instead avoid services and go without care. This avoidance is already happening and harming people. Legislation that further delegitimises their identities will deepen that fear and widen that gap.

The same dynamic operates in schools, where TGD young people already face disproportionate rates of bullying and exclusion. It operates in workplaces. It operates in the legal system, where intersex people — people whose biological reality the Bill explicitly misrepresents — will find that the law describes them as something they are not. And it operates within whānau, where takatāpui, intersex, and gender diverse people may already be navigating complex tensions between their identity and their community's expectations.

For Māori and Pasifika TGD people, the harm is compounded. PS 83 identifies that people from Māori and Indigenous backgrounds who are LGBTIQ+ often face particularly complex layers of discrimination and identity — navigating stigma both within and outside their communities. This Bill adds a layer of legislation to that burden. It does so without acknowledgement, without consultation, and without any demonstrated understanding of the communities it will affect.

The RANZCP's clinical evidence is unambiguous: the increased rates of depression, anxiety, self-harm, and suicidality experienced by TGD and intersex people are linked to the discrimination built into simplistic, binary conceptualisation of sex and gender. This bill would embed such discrimination into legislation and therefore exacerbate existing experiences of stigma, discrimination, and exclusion. psychiatric profession can predict, with confidence, what its cultural effects will be. The Committee should not underestimate the harms this proposed bill will cause.

This Bill will also compromise clinicians' ability to provide appropriate care. Good medical practice often requires the collection and use of both sex-based and gender-based information, depending on clinical purpose: sex, gender identity, and lived experience may all be relevant variables in clinical decision-

making. The Bill's definitions oversimplify these concepts, and their adoption risks reducing health providers' access to clinically significant information — with consequences for the quality and safety of care provided to TGD and intersex patients specifically.

The particular risk to rangatahi

The RANZCP is especially concerned about the impact of this Bill on young TGD people — rangatahi who are still developing their sense of identity and who are at a period of profound developmental vulnerability.

PS 83 documents that LGBTIQ+ young people face mental health risks, especially around the period of coming out. In an Australian survey of LGBTIQA+ young people, almost two thirds had ever been diagnosed with a mental health condition, one in ten had attempted suicide in the past 12 months, and one in four had attempted suicide at some point in their life — with trans and gender diverse young people having the highest rates. The Royal College of Psychiatrists of the United Kingdom PS02/18 confirms that TGD pupils are disproportionately affected by bullying in schools, placing them at elevated risk of self-harm and suicide attempts.

PS 83 also identifies a powerful protective factor: family and whānau support and acceptance can significantly enhance outcomes for LGBTIQ+ rangatahi across a range of indicators. This matters because it points to what helps — connection, affirmation, and belonging. This Bill moves in exactly the opposite direction. It tells young TGD people, at a critical moment in their development, that the law does not recognise them.

The RANZCP urges the Committee to consider what message this Bill sends to a trans teenager in Aotearoa who is already navigating stigma, bullying, and questions about their place in the world. Legislation shapes culture. It tells people whether they belong. This Bill tells some of our most vulnerable rangatahi that they do not.

The Bill's premise is scientifically inaccurate

The Bill claims to reflect 'biological reality.' It does not. Biological sex is not a clean binary. It is a complex, multi-dimensional set of characteristics encompassing chromosomal, gonadal, hormonal, and anatomical variation — none of which are uniform across the human population. PS 83 recognises that intersex traits are a naturally occurring biological phenomenon with at least 40 different variations, including XXY, complete androgen insensitivity, Swyer Syndrome, and Turner Syndrome. Intersex people — estimated at approximately 1.7% of the population — do not fit within the binary the Bill assumes. The Bill would impose legal categories on them that do not reflect their biological reality, let alone their identity and lived experience. A law that stigmatises people for failing to conform to a biological binary that does not exist as described is not just harmful; it is scientifically unjustifiable.

The Bill erases Māori and Pasifika understandings of gender

Gender diversity is not a Western concept introduced to Aotearoa. It is woven into te ao Māori and Pasifika cultures, named and held long before colonisation imposed a binary framework.

Takatāpui — originally meaning a close companion of the same sex, reclaimed since the 1980s as an inclusive term for gay, lesbian, bisexual, transgender, and intersex Māori — encompasses not just identity but wairua, whakapapa, and culture. It cannot be mapped onto biological binaries without doing violence

to its meaning. Contemporary te reo Māori holds further terms: irawhiti (the word for transgender people, encompassing trans men, trans women, and non-binary people), whakawāhine (creating or becoming a woman), tangata ira tāne (a person with the spirit or gender of a man), and ira kore (for those who do not identify with any gender).

Samoan fa'afafine, Tongan fakaleiti, and other Pasifika gender-diverse identities are similarly longstanding and culturally grounded. The Bill takes no account of any of this. Legislation that renders these identities legally invisible raises serious obligations under Te Tiriti o Waitangi, including the Crown's duty to actively protect taonga — among which must be counted the cultural and spiritual frameworks through which Māori understand identity, wairua, and belonging.

The Bill's Poor Drafting Creates Serious Unintended Harms

'Biological' is undefined — and indefinable as a simple binary

The entire Bill rests on the term 'biological,' yet the Bill does not define it anywhere. This is not a minor omission: it is the operative word in every definition the Bill creates. Courts left to interpret what 'biological' means in any given legal context would face irresolvable uncertainty, and the litigation risk — and human cost — of that uncertainty is serious and foreseeable.

The Bill could remove rights for under-20s

The Bill defines 'woman' as 'an adult human biological female' but 'female' as simply 'a human biological female' — no age qualifier. These two terms are therefore not equivalent within the Bill itself. Any legislation that uses 'woman' rather than 'female' would, on the Bill's own terms, exclude biological females below the adult threshold.

Under the Age of Majority Act 1970, where 'adult' is not otherwise defined, it means a person aged 20 or older. The Contraception, Sterilisation and Abortion Act 2020 uses the term 'woman' to describe who may access abortion services. If 'woman' is redefined across all legislation to require adulthood at 20, biological females under that age may no longer fall within the Act's scope.

The same definitional problem excludes trans and intersex people from the Act regardless of age. Because the Bill defines 'female' by reference to biological criteria that trans and intersex people do not meet, they fall outside the Act's scope for the same reason under-20s do — not as an incidental side-effect, but as a direct consequence of the Bill's own definitions. The Council of Medical Colleges, in its submission on this Bill, has independently reached the same conclusion: that the Bill will prevent trans and intersex people from accessing abortion services for these definitional reasons.

Sexual Wellbeing Aotearoa, New Zealand's largest provider of sexual and reproductive health services, has raised this concern publicly, warning that women under 20, trans, and intersex people may not be able to access abortion if this Bill passes. The Attorney-General's report on the Bill identifies further specific downstream harms: females under 20 may no longer be eligible to apply to the court for a declaration of paternity; and the partner or spouse of a female under 20 may be unable to access parental leave, because the relevant legislation requires a certificate confirming a 'woman' is pregnant.

These are concrete, documented consequences that breach the New Zealand Bill of Rights 1990. They arise not from opposition to the Bill's stated purpose, but from the Bill's own text. The Committee should obtain comprehensive legal advice on all consequential impacts across legislation before this Bill proceeds any further.

There is no demonstrated legal need for this Bill

Te Kāhui Tangata, the Human Rights Commission, has stated that the Bill falls short of the Government's human rights obligations and risks harm to communities that continue to experience discrimination on the basis of gender identity. Equal Employment Opportunities Commissioner Professor Gail Pacheco has stated that there is no need to define 'man' and 'woman' in law because the law already works well using their ordinary meaning — and that adding strict definitions creates confusion, excludes people, and causes problems without changing how the law functions.

Legal commentators have noted that there is no demonstrated legal need for this Bill. Its definitions would apply to every piece of secondary legislation in New Zealand — making it, as has been observed, a difficult all-of-government task to determine the consequential problems it creates. That is an extraordinary price to pay for a change that solves no identified problem and creates documented harm.

Conclusion and Recommendation

The RANZCP's position is grounded in clinical evidence, not ideology. That evidence tells us two things clearly:

- Trans and gender diverse people in Aotearoa are experiencing a deep harm driven by stigma, discrimination and simplistic conceptualisation of sex and gender. This Bill will compound those harms. We urge the Committee not to make the mental health of some of the most vulnerable people in our communities worse through poor legislation.
- The Bill is so poorly constructed that it will harm people for whom it was never intended — including young women who need to access abortion. The Committee should not pass legislation whose unintended consequences include the removal of healthcare rights from those under 20.

All people in Aotearoa deserve to live peacefully, free from discrimination and stigma. All people deserve access to the healthcare they need. This Bill threatens both. The RANZCP recommends that the Social Services and Community Select Committee recommend that this Bill not proceed.

Ngā manaakitanga,

Tū Te Akaaka Roa

New Zealand Committee of the Royal Australian and New Zealand College of Psychiatrists

Key References

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