



Rainbow Territory

Submission to Australian Law Reform Commission- Review of the Family Law System

Rainbow Territory aims to create a safer, fairer and a more inclusive Northern Territory

23 May 2018

www.outnt.info/rainbowterritory/

About Rainbow Territory

Formed in September 2014, Rainbow Territory is an unfunded community group that advocates for the human rights of Northern Territorians who identify as Lesbian, Gay, Bisexual, Transgender, Queer and Intersex ('LGBTQI'). We aim to develop a safer, fairer and more inclusive Northern Territory ('NT') through law and policy reform efforts and by increasing community visibility and connectedness.

Rainbow Territory does not speak on behalf of the entire LGBTQI NT community, only on behalf of members and supporters of our group.

Our position

We welcome the opportunity to provide a submission to the Australian Law Reform Commission on the review of the Family Law System. We limit our position to feedback we have received from the LGBTIQ community in the Northern Territory.

Case study 1

Sarah and Alice's de facto relationship irretrievably breaks down. They attend mediation to discuss future parenting arrangements for their five year old child Hannah. Sarah re-partners and commences living with Michael prior to mediation. Sarah brings Michael to mediation. The mediator gives primacy to the heteronormative relationship that Sarah is in and encourages Alice to let Hannah live with Sarah and Michael and spend regular time with Hannah so Hannah can have the benefit of a 'normal' family life. Michael does not value the importance of Sarah's parenting role.

Recommendation 1: That mediators are given specific training to address unconscious bias against the LGBTIQ community.

Recommendation 2: That post-separation parenting courses have a component available for blended families in a same sex attracted/ gender diverse relationship to promote understanding of the LGBTIQ community.

Case Study 2

Braedon and Alexandra were in a relationship for a decade and had two children together. Braedon left the relationship and re-partnered with Sam. Alexandra's family is furious that Braedon is in a same-sex relationship and wants the children to have nothing to do with him. They disparage his 'chosen' sexuality in the presence of the children and to Alexandra, and encourage her to stop the children spending any time with Braedon or his family. Braedon negotiates consent orders to spend time with the children on a regular basis but is concerned that Alexandra's family will continue to disparage him and if he were to die/ become seriously incapacitated, the children would be deprived of the opportunity to maintain a relationship with the paternal family. The parties agree to an order that should anything happen to Braedon, the children will live with the paternal family for four weeks before returning to Alexandra and then attend mediation to discuss the paternal family spending time with the children.

Recommendation 3: That judicial officers are given specific training to consider the emotional and psychological impact on children of having their parent belittled for their same sex attraction or gender diverse identity and explore options to mitigate this harm (for example non-denigration injunctions).

Same-sex domestic violence

Noting that same-sex domestic violence occurs at approximately the same rate as domestic violence in heterosexual relationships,¹ it is vital that the court and judicial officers are aware of the existence of and specific dynamics of LGBTQI domestic violence.

Domestic violence within LGBTQI relationships is both unique and complex in nature and can include forms of emotional and psychological abuse or intimidation and harassment specific to the LGBTQI community including the following:

- "Outing" or threatening to "out" their partner to friends, family, police, church or employer;
- Telling their partner that they will lose custody of the children as a result of being 'outed';
- Threatening to reveal a person's HIV status;
- Telling a partner that the police or the justice system will not assist because the legal justice system is homophobic and or transphobic;
- Telling a partner that the abusive behaviour is normal within LGBTQI relationships and convincing the abused partner that they do not understand LGBTQI relationships and sexual practices because of heterosexism."²

Recommendation: Workers within the family law system receive training on LGBTQI domestic violence and ensure appropriate referral pathways are available for both victims and perpetrators. Ensure that judicial officers receive training about the unique nature of LGBTQI domestic violence.

Should you have any queries in relation to this submission, please do not hesitate to contact us.

Yours Sincerely,

Rainbow Territory
Contact: Rainbow Territory

¹ Australian Domestic and Family Violence Clearinghouse, *Special collections - same sex*, 2012, available at www.adfvc.unsw.edu.au/specialcollectionssamesex.htm, accessed 23 May 2018

² Australian Domestic and Family Violence Clearinghouse Topic Paper: Domestic Violence in Gay and Lesbian Relationships, 2005, p3