



Submission on Ia Tangata:

A review of the protections in the Human Rights Act 1993 for people who are transgender, people who are non-binary and people with innate variations of sex characteristics

Hohou Te Rongo Kahukura – Outing Violence: 5 September 2024

About us: Hohou Te Rongo Kahukura

[Hohou Te Rongo Kahukura](#) is a charitable trust focused on preventing and addressing violence experienced by Takatāpui and Rainbow people, including structural, institutional and interpersonal violence including sexual and partner violence. Our work is underpinned by an acknowledgment of Te Tiriti o Waitangi and the impact of colonisation on understandings of sex, sexuality and gender diversity in Aotearoa New Zealand.

We operate with a Te Tiriti structure, are survivor-led and include people with many different sexualities, genders, ethnicities, class and disability belongings, including allies. We take a community development and research-based approach to prevent violence, improve responses after people have experienced violence and promote wellbeing for people in Takatāpui and Rainbow communities across the lifespan. This includes:

- co-ordinating the Rainbow Wellbeing Network, which brings together kaimahi, volunteers and researchers with an interest in the Takatāpui and Rainbow wellbeing for peer support, particularly in the Waikato, to increase knowledge of services and gaps and grow shared understandings of violence towards Takatāpui and Rainbow communities.
- offering Club Kahukura, a healthy relationships programme for adults who are newly questioning their gender or sexuality, or new to Rainbow community
- a number of advisory roles across government in relation to family, partner and sexual violence and elder abuse
- holding the only social work role in Aotearoa with a focus on violence in Takatāpui and Rainbow communities, via the Integrated Safety Response in the Waikato. We accept referrals to this role solely from New Zealand Police family violence callouts.

Over the last 12 months, we have also trained 391 kaimahi working for 43 different specialist family violence and sexual violence response services around Aotearoa. We developed Rainbow Safe as Te Tiriti informed training in response to requests from NZ Police and family and sexual violence services seeking to improve their responsiveness to Takatāpui and Rainbow communities.

Rainbow Safe is praxis and systems change training, underpinned by our experience in working inside Takatāpui and Rainbow communities, particularly with victim-survivors. It is designed to create deeper understanding about violence experienced by Takatāpui and Rainbow people

and to shift ideas and practice so that family and sexual violence services can safely support Takatāpui and Rainbow people.

In addition to praxis or supporting kaimahi in their interactions with people using their services, Rainbow Safe assists services to assess and shift their organisational systems to become safe places for Takatāpui and Rainbow people to ask for help after violence.

Our submission will focus predominantly on our expert area, the prevention of violence towards Takatāpui and Rainbow people, and safe responses to family and sexual violence.

This submission is informed by:

- our violence prevention and response work inside our communities
- our research programme (we note several pieces of our research are referenced throughout the Ia Tangata Issues Paper)
- our training experiences, working with family and sexual violence services
- a community hui on 7 August 2024 we hosted for the Law Commission, with trans and non-binary and intersex participants
- a session on 29 August 2024 of Te Kete Koha, our monthly communities of practice hui for family and sexual violence practitioners, focused on the ways services meet the needs of trans, non-binary and intersex people experiencing violence
- feedback from several members of our communities who did not participate in other processes

Our language: **Takatāpui** is an ancient Māori term to embrace culture, spirituality, and connection to whakapapa. It has many meanings for iwi and hapū, traditionally meaning “intimate partner of the same sex.” In contemporary times Takatāpui has been reclaimed to denote all those with diverse sex characteristics, gender identities and expressions and sexualities as well as Tangata Whenua identity.

Rainbow is the umbrella term we use for sex, sexuality and gender diversity. We use Rainbow because it is recognised inside our communities, avoids listing English initials which leave out some identities, and allows for fluid diversity. In Aotearoa it can be inclusive of Māori, Pacific and ethnic identities.

Summary

As an organisation with extensive expertise in research, community development, violence prevention and violence responses for Takatāpui and Rainbow people, including transgender and non-binary people and people with innate variations of sex characteristics, we **strongly agree** that an amendment to section 21 of the Human Rights Act 1993 is necessary and desirable to ensure adequate protection from discrimination for people who are transgender or non-binary or who have an innate variation of sex characteristics.

We believe it is necessary to **extend these protections on the basis of gender expression** as well as gender identity, which will protect all those who do not fit western gender binaries. Within Takatāpui and Rainbow communities, we see the impact of gender policing, including

violence directed at those of us who do not fit western gender binaries, as one of the key drivers of violence towards us. This is not always because someone is assumed to be transgender, so needs to be explicitly named within the Human Rights Act.

After feedback from intersex community members, we note that the protections that have been offered in the issues paper offer significant improvements for intersex people **who are also transgender or align as such**. We have received feedback, however, that the needs of people with innate variations of sex characteristics more broadly, particularly those who identify as "intersex" are impacted by the current framing in the document. Identity needs to be understood as having sex and/or psychosocial derivation and not only through gender (which is the institution of erasure for intersex persons). We **strongly request that the Law Commission extensively and further explore** these issues with Intersex Trust Aotearoa, to ensure unintentional harm is not caused through this process.

We do not think access to violence response services, including Refuges and other forms of emergency housing, should be able to exclude transgender and non-binary people and people with innate variations in sex characteristics. In fact, when we have been forced to place transgender people in men's emergency housing or emergency housing supposedly open for all genders, those victim-survivors have been targeted for further violence because of their identity.

We want to see **emergency housing safeguard the needs of transgender and non-binary people and people with innate variations in sex characteristics** through establishing services which are open to all marginalised genders.

Broadly speaking, we see every measure that treats transgender and non-binary people and people with innate sex characteristics with more dignity and reduces the othering of these community members as positive in terms of reducing violence. We do not support the idea that protecting the rights of transgender and non-binary people and people with innate sex characteristics reduces the rights of anyone else, in any domain.

Impacts of colonisation

It is impossible to understand the context for Takatāpui and Rainbow people today without recognising the impacts of colonisation on whānau, hapū, iwi and Takatāpuitanga. For the first time in Aotearoa, men who were intimate with other men were criminalised in 1858, via the English Laws Act. The penalty for Takatāpui and other sexuality diverse men was death.¹ This and subsequent laws restricted the rights of Takatāpui and Rainbow people in a multitude of ways, and the disruption of tikanga has been described as trying to render Takatāpuitanga invisible.²

¹ <https://natlib.govt.nz/records/36179290>

² Dickson, S., Bennett, T., Bramwell, N., Brown, O., Cook, C., Divakalala, C., Fraser, B., Hickey, H., Matheson, L., Miller, K., Monise, M., Munroe, H., and Rodriguez, M., (2023). Uplifting Takatāpui and Rainbow Elder Voices: Tūkua kia tū takitahi ngā whetū o te rangi.

We believe attempts to extend protections to transgender and non-binary people and people with innate variations of sex characteristics must be careful not to further deepen the disruption of Takatāpuitanga, whakapapa and sense of belonging in whānau, hapū and iwi for Takatāpui through too rigidly defining identity in western terms alone. We also believe that the Victorian British values that drove colonisation in Aotearoa carry with them specific ideas about binaries (eg man and woman); categories (eg sex, gender and sexuality as separate dimensions of self); and medicalisation of identities (eg western medical models) that are unhelpful for many in Takatāpui and Rainbow communities in terms of how we understand ourselves. While we understand that has been and continues to be a strategy to ensure talking about the needs of Takatāpui and Rainbow communities does not default to talking primarily about the needs of gay men and lesbians, it is a strategy rooted in rigid western ways of thinking which we find ultimately unhelpful.

We note the fluidity of sexuality and gender identity that is being reclaimed through decolonising efforts within Te Ao Māori, discussed briefly in chapter 5 of the Issues Paper. We note recent research with Pacific communities identified 52% of participants as identifying with terms outside western gender binaries or Pacific indigenous terms, and 20% said terms such as cisgender, transgender and non-binary did not apply to them.³ We note the fluidity of identity in South Asian countries and languages in which many identity words may encompass sex, gender, sex characteristics, and sex position at the same time.⁴ We also note concerns over medicalisation of intersex identities is fundamentally rooted in western values.

We therefore suggest that part of ‘future proofing’ this review is finding ways to *both* extend protections towards transgender and non-binary people and people with innate variations of sex characteristics, and shift away from binary, western terms and categories that do not fit the lived experiences of many in our communities, particularly Takatāpui, Pacific and ethnic Rainbow peoples.

The evidence of discrimination – Chapter 3

Chapter 3 of the Issues Paper briefly covers discrimination towards transgender and non-binary people and people with innate variations of sex characteristics, and we support the areas identified. It could perhaps benefit from clear definitions of discrimination. This is a working definition we have used in our recent research exploring the ways NZ Police respond to women, trans and non-binary victim-survivors.⁵

Cisnormativity describes the common assumption that a person’s gender is always determined by their sex assigned at birth. (When your gender aligns with the sex you were assigned at birth, you are cisgender or cis, which just means “same.”) Cisnormativity is related

³ Thomsen, P., Brown-Acton, P., Manuela, S., Tiatia-Siau, J., Greaves, L., Sluyter, J. (2023) The Manalagi Survey Community Report: Examining the Health and Wellbeing of Pacific Rainbow+ Peoples in Aotearoa-New Zealand.

⁴ Bal, V. (2024). Our Histories Are Queer: A Resource of Queer and Trans South Asian Histories. Adhikaar Aotearoa.

⁵ The Backbone Collective and Hohou Te Rongo Kahukura Make it about us: Victim-survivors’ recommendations for building a safer police response to intimate partner violence, family violence and sexual violence in Aotearoa New Zealand (March 2024).

to the belief that cisgender identities are better than transgender identities, or even that trans people are not real. Cisnormativity creates the systemic invisibility or lack of acknowledgment of gender diversity. Transphobia describes more overt acts of violence towards trans people and/or the idea of transgender, motivated by negative beliefs about what it means to be trans or non-binary.

Cisnormativity, transphobia, heteronormativity, homophobia and biphobia all affect the way gender-diverse and sexuality diverse people are treated by society, including inside community organisations, families and relationships. Discrimination and stigma may also be internalised. All are important for understanding abusive behaviour inside Rainbow relationships, sexual violence towards Takatāpui and Rainbow people, and improving responses to family violence and sexual violence for those in Takatāpui and Rainbow communities.

The lack of specific funded services for Takatāpui and Rainbow victim-survivors of family violence, intimate partner violence and sexual violence in Aotearoa New Zealand is an example of cisnormativity and heteronormativity.

We would also like to add:

- New section:

Intersectional experiences of discrimination

Transgender and non-binary people and people with innate variations of sex characteristics may also experience intersecting and multi-layered discrimination related to other aspects of their identity. For example, Takatāpui and Māori transgender, non-binary and intersex people may experience racism related to being Māori, as well as discrimination related to their sex or gender; additionally, they may be excluded from predominantly white Rainbow communities due to racism, and excluded from whānau and Te Ao Māori because of negative ideas of Takatāpui.⁶ South Asian LGBT+ people living in Aotearoa also report facing a specific, racialized context of threats of queerphobia, racism, xenophobia, fetishisation, conversion practices, harassment, abuse and physical and sexual violence.⁷ Similarly, disabled transgender, non-binary and intersex people may experience discrimination related to their disability as well as their sex or gender identity.

- ***Violence and online abuse (3.13-)*** Add:

The New Zealand Crime and Victims Survey (NZCVS) is a nationwide survey that asks people about their personal experiences of crime. Members of the public have only been asked about their gender identity since 2022, so there is not yet granular reporting about the distinct experiences of transgender and non-binary people in most areas, and there is no reporting on the experiences of people with innate variations of sex characteristics. However, the Ministry of Justice reports that transgender people are 86% more likely to experience interpersonal violence than cisgender people.⁸

⁶ Pihama, L., Green, A., Mika, C., Roskrudge, M., Simmonds, S., Nopera, T., Skipper, H., & Laurence, R. (2020). Honour Project Aotearoa. Te Kotahi Research Institute.

⁷ Bal, V., and Divakalala, C. (2022). Community is Where the Knowledge is: the Adhikaar Report, Adhikaar Aotearoa.

⁸ <https://www.justice.govt.nz/assets/Documents/Publications/NZCVS-5-years-brochure-Web.pdf>

- **3.15** – the summary of our research is incorrect. Last sentence should be amended to: “In the same survey, 15% of heterosexual, cisgender women rated their first contact with police as very poor, and 17% gave it a very good rating.” (Note sexuality diverse cisgender women gave different rates so these figures are not for all cisgender women.)
- **3.16** – from the same research, suggest adding: “38% of transgender and non-binary participants said they were misgendered by the police when they tried to report family or sexual violence.” This is an important point to make; transgender and non-binary people are misgendered by police when they are victim-survivors of crime and seeking protection, not only when they are being questioned about potential criminal activity.
- **Employment (3.19-)** Add:
The WeCount 2019 survey of public sector employees found:
 - 25% of respondents were not gendered correctly at work (note: this point is discussed later under Misgendering, but both of these points are important)
 - 56% of trans employees and 60% of intersex employees were uncomfortable being out at work

In this survey, public service staff were concerned about the risk or potential harm to career aspirations if they were open about who they were. They reported work colleagues often made assumptions about others, made sexuality and gender diversity into a joke, misgendered or used the wrong name when talking to or about trans colleagues.⁹

- New section:

Social services organised along the gender binary

Services responding to family and sexual violence have historically developed with binary ideas about sex and gender, at least partially due to the extremely high levels of violence perpetrated by men towards women and children. In recent years, this has been identified as posing specific problems for Takatāpui and Rainbow victim-survivors more broadly, and in particular for transgender and non-binary people and people with innate variations of sex characteristics who do not identify with binary cisgender identities. For example, in the Good Practice Responding to Sexual Violence – Guidelines for ‘mainstream’ crisis support services for survivors (TOAH-NNEST, 2016), this challenge is described like this: ***‘The elephant in the room for LGBTIQ people engaging with mainstream crisis support services is sex and gender. Many services in Aotearoa New Zealand are sex-segregated (separate for males and females) and treat sex as binary (only male and female) and immutable (does not change from birth). Because the LGBTIQ community includes people who do not identify as male or female; people who feel the sex they were assigned at birth does not describe them; and people who may have been harmed by people of all genders, sex-segregated services provide unique challenges for LGBTIQ people. For trans and gender diverse people, especially those who are not always recognised in their preferred gender, sex-segregated services may be particularly uncomfortable.’***¹⁰

⁹ <https://www.publicservice.govt.nz/guidance/inclusion-and-our-rainbow-public-service>

¹⁰ Dickson, S., (2016), “Doing our best for LGBTIQ survivors”, Good Practice Responding to Sexual Violence (2016), TOAH-NNEST

- New section:

Visibility, coming out and 'stealth' to be safe

Transgender and non-binary people and people with innate variations in sex characteristics are most likely to be discriminated against when their identity is visible in some way, or when they are perceived to look or behave in ways which do not conform with gender expression or relationship norms. Many may try to protect themselves from discrimination through choosing not to “come out” in specific situations if they can.

“My experiences as being trans, and my safety are hinged on me being 'stealth' and hiding in plain sight. I unfortunately spend a lot of time out of the comfort of my community to live a relatively 'free' life.” (Trans man, adult)(Counting Ourselves)

In many contexts, this is not possible. For example, transgender and non-binary people’s gender history may be more “visible” in the early stages of medical transition or if they have been unable to access gender affirming healthcare. Diverse sex characteristics or gender history may also be exposed against someone’s wishes even years after transition, if for example legal identity documents do not match someone’s appearance; if someone is in a situation in which they are required to remove their clothing (hospitals, strip searches or physical examinations); or indeed if competing in a sports competition which ‘discovers’ someone’s innate sex variations through testing.

- New section (which could also gather points made elsewhere):

Police discrimination

In addition to the extensive concerns with police treatment of transgender and non-binary victim-survivors of family and sexual violence we have identified in our research, specific, systemic concerns about police treatment of transgender and non-binary people have been raised more broadly, including by Te Kāhui Tika Tangata Human Rights Commission. In addition to police failing to use correct names or pronouns/genders, police violence has been identified towards trans people in custody. See for example the 2022 Independent Police Conduct Authority report: “Excessive use of force and inadequate post-injury care in Counties Manukau Custody Unit” available on the IPCA website and Walton, F. (2022) “Human Rights Commission urges police to address treatment of transgender people” 13 July 2022, NZ: RNZ. These and related concerns have led to calls for the police to address their treatment of transgender people more broadly.¹¹

Key reform considerations – Chapter 4

The existing four pairs of ideas: equality/fair play; dignity/self-worth; autonomy/privacy; and limits/proportionality, in our view, do not adequately cover safety/freedom from violence which is deeply connected to discrimination.

This is acknowledged explicitly in several government reports and strategies focused on institutional and interpersonal violence. For example, Te Aorerekura National Strategy to Eliminate Family Violence and Sexual Violence, states:

¹¹ The Backbone Collective and Hohou Te Rongo Kahukura Make it about us: Victim-survivors’ recommendations for building a safer police response to intimate partner violence, family violence and sexual violence in Aotearoa New Zealand (March 2024).

“Discrimination and stigma are drivers of violence towards LGBTQIA+ people – at home, at school and in the community. Discrimination causes us psychological distress and stops us reaching out for help. When we do seek support, responses often take a binary-gendered and heteronormative view, meaning the violence can go unaddressed and harmful norms are further entrenched.”

A report provided for the Royal Commission for Abuse in Care to uphold the voices of Takatāpui, Rainbow and MVPFAFF+ survivors similarly points to discrimination through the values imported to Aotearoa through colonisation underpinning the diverse forms of violence experienced in care by people in our communities.¹²

The Pākehā and Western, cis and binary shapes, forms and ideas that dominate our society marginalise those ‘other’ people who identify or act in ways other than those prescribed by the dominant norm. Both socially and legally, othering has gone beyond exclusion and ignorance, and reached the realm of visceral harm, hatred and abuse ... This binding plagues our history and society today, shapes our history of colonisation, and features heavily in survivors’ experiences of abuse in care in Aotearoa New Zealand.

Safety/freedom from violence is an important consideration in part because it helps us consider whether existing violence response services should be available to transgender and non-binary people, and people with innate variations in sex characteristics.

In 1994, while working in a Refuge in London as a social worker, a woman in the safe house told me she had been assigned male at birth. Her parents, on medical advice, had not shared with her that there had been any doubt about her sex and gender until she went through puberty, when she developed breasts and went through other body changes more usually associated with women and girls. At this point, her parents told her about her birth, and with their support she went through extensive medical processes to align her body with being a woman. She identified as an intersex woman but felt a great deal of disruption to her own sense of her sex and gender. I had accepted her into the Refuge because she was escaping violence from a very abusive man. After she shared her sex and gender journey with me, I learned her partner had been targeting her disrupted sense of gender as part of his psychological abuse.

She did not in any way make any other women in the Refuge unsafe. She needed the safety of Refuge to escape men’s violence.

(Sandra Dickson, Hohou Te Rongo Kahukura)

¹² Moyle, P., (2023), As a Kid, I Always Knew Who I Was: Voices of Takatāpui, Rainbow and MVPFAFF+ survivors - An independent research report provided to the Abuse in Care Royal Commission.

Historically, as discussed above, family and sexual violence services have been established primarily for women and children escaping violence from men, with a smaller number of services specifically for male survivors, typically of childhood sexual abuse. These services began in the 1980s, when our understandings of sex, gender and sexuality were considered less well-developed. Today, there is much wider recognition of the causes and enablers of family and sexual violence. Again, from Te Aorerekura (p6):

“Aotearoa New Zealand’s high rates of family violence and sexual violence severely undermine the wellbeing of people impacted by violence and their families and whānau. People experiencing compounding forms of disadvantage and discrimination are disproportionately affected. Family violence and sexual violence need to be understood in the context of widespread social beliefs and practices. Pervasive harmful beliefs about power, gendered roles, and identities shape expectations of how people behave.”

Understanding violence as socially structured, rather than biologically determined, assists significantly with addressing the need for protections within the Human Rights Act for transgender and non-binary people and people with innate variations in sex characteristics. Hohou Te Rongo Kahukura understands family and sexual violence as systemic entrapment, enabled by state violence and neglect. This way of conceptualising violence acknowledges the role of the system in keeping victim-survivors in unsafe situations through fragmented, disconnected services that are difficult to navigate; fear of the consequences of help-seeking (on employment, housing, community belongings); fear of encountering people who are disrespectful and discriminatory inside Police, social and justice services; and fear of ineffective service responses including being denied services. Understanding family and sexual violence in this way moves beyond a focus only on a perpetrator, to the weaponizing of the social circumstances of victim-survivors as a means of exerting and maintaining power and control.

Transgender and non-binary people and people with innate variations of sex characteristics do not currently receive safe responses after violence. This compounds and further enables abuse from perpetrators, allowing further opportunities for the use of violence and discouraging help-seeking.¹³

Safe violence response services

The discussion around safe violence response services for transgender and non-binary people and people with innate variations in sex characteristics often gets stuck around whether or not transgender women should be able to access women’s services. In our view, this

¹³ The Backbone Collective and Hohou Te Rongo Kahukura Make it about us: Victim-survivors’ recommendations for building a safer police response to intimate partner violence, family violence and sexual violence in Aotearoa New Zealand (March 2024).

discussion is entirely too narrow, particularly given available evidence suggests that violence towards transgender people in Aotearoa is not restricted to transgender women. For example, in New Zealand's largest survey of trans people, 23% of trans women; 33% of trans men and 38% of non-binary people reported being forced to have sex against their will after the age of 13.¹⁴ This parallels sexuality diversity, where bisexual people report higher rates of sexual assault than lesbians and gay men, and heterosexual people, and perhaps reflects the influence of western rigid binaries.¹⁵

In addition, we see specific issues in relation to safe responses for transgender and non-binary young people and children, and children and young people with innate variations of sex characteristics. A government commissioned report in 2023 identified that Rainbow children and young people make up about 20% of the children and youth in the care of Oranga Tamariki.¹⁶ Takatāpui and Rainbow children are more vulnerable to being targeted for family and sexual violence, often because they are breaking sexuality or gender norms and so are isolated, and punished, within families by parents or other caregivers and family members who do not support who they are.¹⁷ Children and young people with innate variations of sex characteristics may experience surgeries to 'normalise' their bodies (which is sometimes called medicalised rape) before they are able to offer informed consent, which are a human rights violation and may cause long lasting shame, distress, pain and trauma. Teaching about healthy relationships in schools needs to include the needs of Takatāpui and Rainbow children and young people, at least in part so that discriminating beliefs, attitudes and behaviours can be challenged from other students, school environments, and family contexts. This means services for children and young people experiencing violence **must** be safe for all Takatāpui and Rainbow children.

We also recognise conversion environments may exist within families, communities and statutory and faith-based institutions. Conversion practices and other negative experiences inside care and other state institutions occur for Takatāpui and Rainbow people across the lifespan, including people we have supported.¹⁸ The Survivor Experiences Service, set up by the state in response to the Abuse in Care Royal Commission of Inquiry, recognise Takatāpui and Rainbow children, young people and adults as uniquely vulnerable in care. In addition to physical and sexual abuse, they identify the following:¹⁹

¹⁴ https://countingourselves.nz/wp-content/uploads/2020/01/Counting-Ourselves_Report-Dec-19-Online.pdf

¹⁵ <https://www.justice.govt.nz/assets/Documents/Publications/NZCVS-5-years-brochure-Web.pdf>

¹⁶ Oranga Tamariki Evidence Centre (2023). Rainbow children in care. Understanding how Oranga Tamariki can better support rainbow children and youth. Wellington, New Zealand: Oranga Tamariki—Ministry for Children.

¹⁷ Dickson, S., Fraser, B. and Bramwell, N. (2021), Healthy Relationships and Consent: Through the lens of Rainbow identifying youth, Waikato Queer Youth and Hohou Te Rongo Kahukura. See also meta-analysis <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3134495/>

¹⁸ See Moyle, P., (2023), As a Kid, I Always Knew Who I Was: Voices of Takatāpui, Rainbow and MVPFAFF+ survivors - An independent research report provided to the Abuse in Care Royal Commission and Dickson, S. et al, (2023). Uplifting Takatāpui and Rainbow Elder Voices: Tukua kia tū takitahi ngā whetū o te rangi.

¹⁹ <https://survivorexperiences.govt.nz/for-survivors/lgbttiq-survivors/>

We support people who have experienced different types of abuse, including behaviours that may not been seen as “traditional abuse”. This includes transphobic, biphobic, homophobic or interphobic microaggressions, neglect and alienation, loss of family and ongoing relationships, restraint and seclusion, lack of education, lack of privacy, loss of culture and cultural abuse.

So, in considering whether violence response services should be able to exclude transgender and non-binary people and people with innate variations of sex characteristics, we utterly reject that such exceptions will make cisgender people, in particular cisgender women, safer. We believe such arguments are disingenuous, and an example of cisnormative and transphobic belief systems because they:

- Fail to recognise the high rates of violence experienced by transgender and non-binary people and people with innate variations of sex characteristics
- Falsely conflate biological sex with violence, and treat cisgender women as more likely to be targeted for violence because of patriarchal ideas about their bodies, rather than patriarchal social values, institutions and laws which disempower women
- Falsely conflate biological sex with violence, and treat transgender women and transfeminine people in particular as more likely to perpetrate violence because of the body they were born with, in other words the presence of a penis
- Suggest men will ‘pretend to be women’ or order to access gendered services and abuse women. This argument is astonishing. Levels of men’s violence against women do not suggest that men need to access gendered services – most of men’s violence occurs in the home, or other places they are able to access women known to them.

We utterly reject the idea that transgender women are any less authentic than cisgender women.

We also note that those working in family and sexual violence services are very used to assessing risk and managing crisis environments. For example, when serving women who have experienced partner or sexual violence from other women, the safety of the victim-survivor is prioritised, and the woman using violence would not be admitted or supported at the same time by the same service. A similar accommodation is often made for women in relationships with gang members, and for women from ethnic communities in which other women family members may be part of controlling her behaviour – services will ensure two gang women are not in a service at the same time or will not allow ethnic women from the same family grouping to access the same service at the same time. These kinds of risk assessment skills are fundamental for services and reflect the complex situations in which violence occurs.

In our Te Kete Koha session to inform this submission, kaimahi raised that in coming from a Māori world view, acceptance of Takatāpui, including transgender and non-binary people, was enabled.

Kaimahi mentioned several strategies to safely provide services to transgender and non-binary victim-survivors including:

- Offering services to cisgender women and all gender minorities, recognising cisgender men cause most violence
- Offering one-on-one services
- Paying for accommodation in motels if the existing balance of safe house requires that. We note that Refuges adopt this strategy for working with many women who might struggle in a Refuge environment, including women with substance misuse issues; women with mental health issues; women with many children and women with children with complex needs

The complete impracticality of insisting that cisgender women should have access to a service that excludes transgender women relies on an idea that we can 'tell' who is transgender and who is not. The recent controversy over boxer Imane Khelif highlights how ridiculous this is and demonstrates that assumptions about biological sex often rest on someone's gender expression. Unless we are prepared to insist that social services responding to violence have the power to inspect the genitals and/or offer chromosome testing, restricting violence response services to those who 'look like' women will inevitably:

- Treat some cisgender women as suspicious because they are not feminine enough
- Fail to recognise many transgender women as transgender

It is just as impracticable to rely on identification documents, which are not always available for those escaping violence, and may well have been legally changed to match gender identity in any case, again meaning transgender women are not profiled as transgender.

We utterly reject any need for such processes and ask that any amendments to the Human Rights Act do not restrict the services that transgender and non-binary people and people with innate variations of sex characteristics can access after violence.

In fact, we would like to see this review result in strengthened imperatives for existing services to become more competent in working with all Takatāpui and Rainbow people.

Strengthening family and sexual violence responses

Over the last year, we have trained 391 kaimahi working for 43 different specialist family violence and sexual violence response services in Rainbow Safe. Rainbow Safe is unique in Aotearoa, because of the specific focus on understanding family and sexual violence, moving well beyond 'Rainbow 101' which largely focuses on identities within Takatāpui and Rainbow communities and accommodations that can be made to make us feel more welcome.

This experience has identified many issues relevant to this review. Prior to Rainbow Safe training, 33% of kaimahi have supported trans women and 20% have supported trans men. One in four kaimahi (24%) have supported gender diverse Takatāpui or non-binary people, and 21% have supported people of other gender identities.

Transgender and non-binary people are already accessing violence services, and violence services want to know how to work with them.

Post-training evaluation results illustrate extremely high levels of change in kaimahi understandings and practice, including:

- 97% satisfaction with one or more aspects of the training
- 94% indicating a greater understanding of the impact of homophobia, biphobia and transphobia
- 94% indicating a greater understanding of vulnerabilities for Takatāpui and Rainbow people
- 95% indicating, and being able to describe their ideas about how to keep Takatāpui and Rainbow children and adults safe

It is our belief that with specialist training, our violence response services can become safer places for all victim-survivors in Takatāpui and Rainbow communities to ask for help. We would like to close with an anonymised email from a service we have recently trained:

Kia ora Kahukura whanau

I thought I would share a heart-warming story one of our foodbank team told us this morning. Last week a member of the community came through the foodbank, and they were clearly from the rainbow community. Our foodbank team member got up the courage to ask if they would mind if she asked a question and when getting a positive response explained that she had very recently been through some training and want to ask what their preferred pro-nouns were. The client was delighted, and they had a beautiful interaction that ended in smiles a few tears from our staff member (when the client explained how much this meant to her) and a hug. A beautiful exchange of the best of humanity and very encouraging to us all.

Thank you for your training and encouragement
