

Submission on Victims of Sexual Violence (Strengthening Legal Protections) Legislation Bill

Hohou Te Rongo Kahukura – Outing Violence: 23 January 2025

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:

- offering support and recovery services specifically for Takatāpui and Rainbow survivors of sexual harm in Aotearoa, where our identities are treated as the taonga they are, and sexual harm is understood within our community contexts. This ACC Sensitive Claims service is very new, beginning in December 2024 and is the first of its kind in Aotearoa.
- 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
- several 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 family 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 nearly 400 kaimahi working for more than 40 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.

This submission is informed by:

- our violence prevention and response work inside our communities
- our research programme, which explores the causes and experiences of violence within Takatāpui and Rainbow communities
- our training experiences, working with family and sexual violence services

Our research lead, Sandra Dickson, also wrote the Good Practice Guidelines for supporting Takatāpui and Rainbow survivors of sexual harm for Te Ohaakii a Hine – National Network Ending Sexual Violence Together.¹

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.

Takatāpui and Rainbow communities in the justice system

Despite people in Takatāpui and Rainbow communities being more likely to experience crime in New Zealand, they are less likely to report crime and less likely to feel safe than other New Zealanders. The New Zealand Crime and Victimisation Survey began publishing data about sexuality diversity in 2020, and gender diversity in 2023. The results over five cycles show that LGBT+ people are significantly more likely to be victims of crime, more likely to be targeted for interpersonal violence or sexual assault and more likely to be highly victimized than other New Zealanders. LGBT+ women are four times as likely as all women to be targeted for sexual violence.² In the first four

¹ Dickson, S. (2016). Doing our best for LGBTIQ survivors: Good practice responding to sexual violence — Guidelines for mainstream crisis support services for survivors. Round two. TOAH-NNEST 2016, available at <https://kahukura.co.nz/wp-content/uploads/2024/05/Doing-our-best-for-LGBTIQ-survivors.pdf>

² The New Zealand Crime and Victims Survey: Key Findings Booklet Cycle 5 November 2021 - November 2022. Cycle 5 includes trans people for the first time. LGBT+ includes trans people and those who identified as gay, lesbian, bisexual or having another sexual identity.

cycles, bisexual people reported experiencing the highest crime rates of any group measured and were at least more than twice as likely to be targeted for crime.³

New Zealand's protections around sexual harm allows people to report harm regardless of gender or sexuality, though existing legal definitions of "rape", the most commonly used colloquial term for sexual harm, do not fit experiences of men, trans and intersex victim/survivors as they require penetration of a vagina by a penis.⁴

Expectations of legal remedies for sexual violence are very low inside Rainbow communities and there is little specific information and only our (brand new) service specific for Takatāpui and Rainbow survivors. Reporting of sexual crimes is low for all victims, but those in Takatāpui and Rainbow communities face significant additional barriers as they are frequently stereotyped as more sexual than others. Gay men, bisexual people, and trans women in particular are often portrayed as promiscuous, predatory, and available for sex at any time with anyone. This is compounded by sex worker stigma for those also engaged in sex work.

In most situations, Takatāpui and Rainbow people will need to come out to report sexual harm about their identity, their body, and the context in which the harm occurred. The very fact that sexual harm involves sexual acts and bodies may make reporting or giving evidence in court extremely traumatic. For trans, non-binary and intersex people, they may have to publicly discuss their bodies using terms which cause them dysphoria. Any unwanted sexual act which does not align with the gender identity of a trans person will increase traumatic impact. Additional trauma can be caused by any form of sexual assault accompanied by verbal abuse or slurs directed at someone's identity.

Some gay, bisexual, and other men who have sex with men participate in sexual 'meet-up' sub-cultures at sex-on-site venues. Experiences of sexual harm can be very difficult for men in this situation to report, as doing so requires disclosing participation in a stigmatised sexual sub-culture, which might also include drug use.

Sexual violence towards people in Takatāpui and Rainbow communities may also occur in contexts where people are being punished for breaking sexuality or gender norms. The motive of the perpetrator is to "correct", change, or suppress someone's sexuality, gender identity, or gender expression. For example, unwanted vaginal penetration may be forced onto lesbian and bisexual women or trans men. Trans, non-binary and

³ Data from Ministry of Justice. 2022. New Zealand Crime and Victims Survey. Cycle 4 survey findings. Descriptive statistics. June 2022.

Results drawn from Cycle 4 (2020/21) of the New Zealand Crime and Victims Survey. Wellington: Ministry of Justice; Ministry of Justice. 2020.

New Zealand Crime and Victims Survey, Experience of Crime by Sexual Orientation, Cycle 1 and Cycle 2, March 2018 – September 2019, Wellington: Ministry of Justice.

⁴ McDonald, E., (2019), Gender neutrality and the definition of rape: challenging the law's response to sexual violence and non-normative bodies, University of Western Australia Law Review Vol 45(2): 166.

intersex people may have been specifically targeted for assault because of their diverse bodies.

Community research from Hohou Te Rongo Kahukura and others confirm these distinct barriers to reporting sexual violence based on fear of discrimination.⁵ There is also considerable distrust of New Zealand Police for many, based on historical criminalisation and ongoing negative experiences, particularly for trans and non-binary people.

Our most recent research, with The Backbone Collective, shared findings from a survey of 599 survivors about their experiences with NZ Police responses to family violence, partner violence or sexual violence. Many participants, particularly trans and non-binary people, sexuality diverse women, Māori and disabled people, shared that police involvement made them less safe and in some cases emboldened the abuser, often through police inaction.⁶ Specific concerns around confidentiality for Takatāpui and Rainbow communities related to the size of our communities; negative impacts of ‘coming out’ to report sexual harm; and concerns over judgments within criminal justice processes from justice staff and the public, specifically in relation to sexual harm.

In the UK, the Crown Prosecution Service has developed a toolkit to support prosecutors considering issues which may arise in relation to cases of sexual violence involving adults where both the complainant and suspect/defendant are the same sex; or where the complainant is bisexual or transgender.⁷ Here in Aotearoa, we wrote a chapter for *Kia Mana te Tangata/Judging in Context: A Handbook* for Te Kura Kaiwhakawā/the Institute of Judicial Studies specifically focused on Rainbow communities, including content relating to sexual violence.

⁵ See for example

- The Backbone Collective and Hohou Te Rongo Kahukura, (2024), Make it about us: Survivors’ recommendations for building a safer police response to intimate partner violence, family violence and sexual violence in Aotearoa New Zealand ([link](#));
- Hare, D. L. (2019). LGBTIQ experiences of seeking help and justice in the wake of sexual harm. *Women's Studies Journal*, 33(1/2), 25-32 ([link](#));
- Veale J, Byrne J, Tan K, Guy S, Yee A, Nopera T & Bentham R (2019) Counting Ourselves: The health and wellbeing of trans and non-binary people in Aotearoa New Zealand. Transgender Health Research Lab, University of Waikato: Hamilton NZ ([link](#));
- Dickson, S., (2016), "Doing our best for LGBTIQ survivors", Good Practice Responding to Sexual Violence (2016), TOAH-NNEST ([link](#));
- Dickson S., (2016), Building Rainbow communities free of partner and sexual violence, Hohou Te Rongo Kahukura ([link](#)).

⁶ The Backbone Collective and Hohou Te Rongo Kahukura, (2024), Make it about us: Survivors’ recommendations for building a safer police response to intimate partner violence, family violence and sexual violence in Aotearoa New Zealand.

⁷ The Crown Prosecution Service, Same sex sexual violence and sexual violence involving a trans complainant or suspect/defendant – Toolkit for Prosecutors, May 2021([link](#))

Supports available for Takatāpui and Rainbow survivors of sexual harm

Until the recent development of Hohou Te Rongo Kahukura's Sensitive Claims service, Aotearoa has had no specialist supports available for Takatāpui and Rainbow survivors of sexual harm, despite the recognition of significant levels of need in Te Aorere-kura

The historical under-provision of services for Takatāpui and Rainbow survivors has resulted in several adverse consequences:

- Lack of community awareness and knowledge within our communities about what constitutes sexual harm⁸
- Lack of access to therapists trained to work effectively with our populations
- Lack of data relating to Takatāpui and Rainbow survivors of sexual harm – there are currently no requirements for reporting numbers of sexuality or gender diverse people who are accessing services
- Lack of training availability – in 2023/24 MSD provided Hohou Te Rongo Kahukura with a one year contract in which training was made available freely to Family and Sexual Violence services throughout Aotearoa. The discontinuation of this training (despite extremely positive results) leaves a significant gap
- Low levels of trust in the system and belief that survivors can get justice⁹
- Lack of research and knowledge about what are effective models of healing for Takatāpui and Rainbow communities
- Lack of impetus from mainstream sexual violence organisations to improve practice in working with Takatāpui and Rainbow populations

While we recognise many of these issues are outside the scope of the Committee, we encourage members to consider the social world that Takatāpui and Rainbow survivors are operating in, and the deficit of service provision that sits alongside the legislative changes that are proposed. We encourage Committee members to read the [2024 Hohou Te Rongo Kahukura Report Card](#), detailing the slow progress made since 2016 to reduce partner and sexual violence for Takatāpui and Rainbow people.¹⁰

⁸ Javid, A. (2015). Police responses to, and attitudes towards, male rape: Issues and concerns. *International Journal of Police Science & Management*, 17(2), 81-90. <https://doi.org/10.1177/1461355715580914>

⁹ Dickson, S., (2016), "Doing our best for LGBTIQ survivors", *Good Practice Responding to Sexual Violence* (2016), TOAH-NNEST ([link](#)).

¹⁰ Hohou te Rongo Kahukura 'Report Card', retrieved from: <https://kahukura.co.nz/wp-content/uploads/2024/07/Hohou-Te-Rongo-Kahukura-marks-the-government-2024.pdf>

Support for amendments

Hohou Te Rongo Kahukura supports the proposed Amendment papers 215 and 216. We believe these amendments will provide more agency and control to survivors, including Takatāpui and Rainbow survivors, who are going through a court process.

Amendment 215: This amendment is to include automatic name suppression of the identity of complainants in all offences of a sexual nature.

We support this amendment, and the broader scope of the amendment to include all offences of a sexual nature. However, we would like the committee to consider the following points, specifically relevant to Takatāpui and Rainbow communities:

- Including all offences of a sexual nature is particularly important for survivors in our communities, where sexual offending can include acts that fall outside of legal definitions of ‘rape’ (for example) and where what is considered a ‘crime’ is often not well understood¹¹
- Takatāpui and Rainbow survivors of sexual harm are not often believed¹² and are additionally stigmatised as leading “risky” lifestyles or not fitting the image of the “ideal victim”¹³. Name suppression reduces potential re-traumatisation
- Name suppression is an important tool in ensuring the safety of survivors. This is particularly true when sexual harm has occurred that is connected to a person’s diverse sexual identity (for example, both perpetrator and survivor are bisexual). There are considerable numbers of people in our society that consider diverse sexualities to be deviant so ensuring safe identity suppression for survivors in all offences of a sexual nature is important.
- However, Takatāpui and Rainbow communities are often closely connected virtually as well as through social networks and name suppression can be a completely ineffective tool for maintaining the safety of survivors. In cases we have supported, survivors have been named, vilified as liars and hounded on social media by other members of our Takatāpui and Rainbow communities. We would like the committee to consider increasing the protections, social supports, and court supports provided to survivors within our communities.

¹¹ The Backbone Collective and Hohou Te Rongo Kahukura, (2024), Make it about us: Survivors’ recommendations for building a safer police response to intimate partner violence, family violence and sexual violence in Aotearoa New Zealand ([link](#));

¹² Mortimer, S., Powell, A., & Sandy, L. (2019). ‘Typical scripts’ and their silences: exploring myths about sexual violence and LGBTQ people from the perspectives of support workers. *Current Issues in Criminal Justice*, 31(3), 333–348. <https://doi.org/10.1080/10345329.2019.1639287>

¹³ Savage, M. W., Scarduzio, J., & Milne, K. (2022). News Stories of Intimate Partner Violence: An Experimental Examination of Media Framing and Perpetrator Sex in LGBTQ Versus Heterosexual Relationships. *Journal of Interpersonal Violence*, 37(23-24), NP22226-NP22249. <https://doi.org/10.1177/08862605211071143>

ADDITIONAL RECOMMENDATION: We strongly encourage the development of training, supervision and support services specifically geared towards enhancing the safety of Takatāpui and Rainbow survivors going through court systems.

Amendment 216: This Amendment is to allow complainants greater decision-making responsibilities around name suppression for adult defendants who are convicted of sexual offences.

We support this Amendment, believing it is very important name suppression of defendants aligns with survivor needs.

We have two specific contexts within which this could improve safety within Takatāpui and Rainbow communities. One is where a perpetrator is a serial predator. Removing name suppression may well shift community understandings of their behaviour over time and allow other survivors to come forward.

The other is where the perpetrator holds a position of community leadership. As in other communities, those causing sexual harm often seek positions of power which enable perpetration and make it more difficult for survivors to come forward. Again, we believe this shift will help shift community understandings of their behaviour over time and allow other survivors to come forward.

However, we again note that our social context means these shifts require specialist supports within our communities and court systems.

ADDITIONAL RECOMMENDATION: We strongly encourage the development of training, supervision and support services specifically geared towards enhancing the safety of Takatāpui and Rainbow survivors going through court systems.