

YOUTH SECTOR RAINBOW COLLECTIVE

KEY DEMANDS FROM RAINBOW ORGANISATIONS IN AOTEAROA

Clarification about "rainbow"

We use rainbow as an umbrella term to describe populations and individuals whose sexual orientation, gender identity, gender expression or sex characteristics differ from majority, binary norms. The formal term for 'Rainbow' is 'people with a minority SOGIESC' or 'SOGIESC Diverse' - where SOGIESC stands for Sexual Orientation, Gender Identity and Expression, and Sex Characteristics. This includes people who identify with terms like takatāpui, lesbian, gay, bisexual, intersex, transgender, queer, nonbinary, mahu, palopa, fa'afafine, akava'ine, fakaleiti (or leiti), and fakafifine. Additionally, rainbow may include people who don't use specific words for their identity, people whose identity changes over time, and people who are in the process of understanding their own identity and may not have 'come out' to themselves or others. Furthermore, we recognise that not everyone who is trans or intersex (for example) identify as being part of 'rainbow communities'. When we talk about 'Rainbow' people, we're referring to individuals who have a minority SOGIESC, regardless of their identity.



HUMAN RIGHTS

- **Ban so-called 'conversion therapies' imposed on rainbow individuals.** (This includes conversion therapy based on a person's sexual orientation, gender identity, or gender expression)
- **Enable trans, non-binary and intersex folks to change the gender details on any official documentation** based solely on a statutory declaration of their self-defined gender.
- **Enable adults (including asylum seekers and those on temporary visas) and those aged 16 and 17 with intersex variations or who are trans or non-binary to change the sex details on any official documentation** to the binary genders male (M), female (F) or non-binary (X) based solely on a statutory declaration of their self-defined gender. Children under 16 through a parent or legal guardian completing a statutory declaration on the child's behalf at the explicit request of the child. Also release the report from the working group on the BDMRR bill.¹
- **Provide emergency housing for rainbow young people.** This must be a part of a rainbow homelessness plan that includes upskilling service providers about how to support rainbow young people, and rainbow-specific support roles.
- **Amend Section 21 of the Human Rights Act 1992** to explicitly include gender identity, gender expression and sex characteristics as specific prohibited grounds of discrimination. Provide comprehensive resources and training to employers, educational institutions, government agencies and other service providers outlining how transgender, non-binary and intersex people are fully protected from discrimination under section 21 of the Human Rights Act 1993.²
- **Amend section 392 of the Immigration Act 2009,** to extend the mandate of the Human Rights Commission. This will ensure that the Human Rights Commission can receive complaints of human rights violations related to immigration laws, policies and practices and report on them.

HUMAN RIGHTS

- **Ban medical interventions on intersex infants** - this includes 'genital normalisation' surgery.
- **Complete the hate crime law review** and ensure the protection of trans and non-binary, intersex, and sexual minority populations under the law. Update hate speech provisions to effectively address hate speech based on sexual orientation, gender identity, gender expression, and sex characteristics, and collect data about crimes motivated by hostility towards people with a diverse SOGIESC, including through research and effective police and justice sector recording processes. This work needs to be undertaken as part of a wider action plan to address discrimination, harassment and hate speech, particularly towards transgender, non-binary and gender diverse New Zealanders.³
- **Ensure that the Census collects data** on trans and non-binary populations, intersex populations, and sexual minority populations. Ensure that Statistics New Zealand works with Rainbow community experts to develop a comprehensive, coordinated work plan to collect data that will inform policy and funding decisions designed to reduce inequalities faced by rainbow populations. This includes resourcing the participation of rainbow researchers and community organisations in this work and specifically on working with Statistics New Zealand on guidelines for collection of data.
- **Ensure rainbow populations and specifically transgender and intersex populations are recognised as priority groups for COVID-19 response and recovery plans.** Continue to work with rainbow organisations in order to support their work with rainbow communities in the context of ongoing social and economic impacts of COVID-19 and the wider global pandemic.
- **Reform adoption laws.** This also requires modernising other laws relating to the care of children to reflect the legitimate diversity of Aotearoa New Zealand whānau, parenting and care arrangements, including by rainbow individuals and couples.

HEALTH & WELLBEING

- **Require all DHBs to provide gender affirming healthcare, based on an informed consent model of healthcare,** as part of crown funding agreements. Work with rainbow organisations to provide training about how to provide safe and respectful gender affirming healthcare to all healthcare workers (including primary, secondary, and mental health services). Establish clear pathways of care based on informed consent processes in all DHBs, and ensure connections are made between DHB based secondary services and primary care and other community based services, so that information is easily available to health professionals and the public about how to access these pathways.⁴
- **Develop a targeted rainbow mental health strategy and action plan.** Work in partnership with community organisations and leaders to ensure a targeted response that addresses the needs of rainbow populations.⁵
- **Establish community based mental health response teams** who can respond to situations of mental distress.
- **Add a clause into all MSD and MoH funding agreements that requires all providers to meet a minimum standard of rainbow competence.** Work with rainbow support organisations to develop targeted audits for providers, and deliver training and policy improvement processes to all providers who need to demonstrate their competence.

EDUCATION

- **Educate all family and sexual violence services** about how to support rainbow people. Resource rainbow organisations to provide training and advice to mainstream organisations in the family and sexual violence sector (including relevant medical professionals, Police and courts staff) about how to prevent and respond to rainbow people's experiences of partner, sexual and other violence. Work on building positive relationships between police, courts, medical professionals providing emergency sexual abuse treatment and sexual health assessments and other referrers which will create more accessibility for rainbow communities to access services and feel safe to identify as rainbow, instead of under-report or not present to services at all.
- **Require all schools, including 'special character' schools, to implement anti-discrimination policies** and guidelines that explicitly name and define sexual orientation, gender identity and expression, and sex characteristics. These policies must outline how the school will ensure safe and inclusive environments for rainbow students, including addressing bullying, respecting student privacy and options for gender-neutral facilities and uniforms.
- **Support the provision of dedicated, ongoing support and professional development to school staff and teachers in training, regarding rainbow diversity.**⁷ This professional development must be delivered from rainbow organisations, and with a specialised approach for Māori-medium schools.
- **Provide training and resources about how to support and respect rainbow young people to all foster families and support workers.** This is delivered as part of wider inter-agency work to ensure the safety and dignity of rainbow young people (particularly trans, nonbinary, takatāpui and intersex young people) when in the care of Oranga Tamariki and residential care settings such as rehabilitation centres.

REFERENCES

¹ PRISM: Human Rights issues relating to Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) in Aotearoa New Zealand - A report with recommendations, 2020. "The Births, Deaths, Marriages, and Relationships Registration Bill was introduced to Parliament in 2017. Recommendations made by the Select Committee in 2018 proposed changes to simplify the process of amending sex on birth certificates, bringing the process in line with existing domestic self-declaration processes," "The working group produced a final report on their findings to the Minister at the end of their appointment, but no timeframes have been established for the resolution of the broader issues identified by the Minister. This further jeopardises the human rights of trans, non-binary, and intersex communities."

https://www.hrc.co.nz/files/9215/9253/7296/HRC_PRISM_SOGIESC_Report_June_2020_FINAL.pdf.

² PRISM: Human Rights issues relating to Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) in Aotearoa New Zealand - A report with recommendations, 2020. "While the Commission has interpreted the Human Rights Act to include discrimination on the basis of gender identity under the ground of sex discrimination since at least 2005, trans people have made it clear that they do not feel protected by the Commission's position. Amending s21(1) (a) of the Act to also include gender identity, gender expression, and sex characteristics under the ground of sex was raised at every public hui the Commission hosted for SOGIESC-diverse people in 2018, and continues to be raised in other fora."

https://www.hrc.co.nz/files/9215/9253/7296/HRC_PRISM_SOGIESC_Report_June_2020_FINAL.pdf

³ The rights of rainbow children in Aotearoa New Zealand: A submission to the UN Committee on the Rights of the Child, Te Ngākau Kahukura, 2020. "Rainbow communities have seen a significant increase in targeted discrimination in the last two years, including organised advocacy against transgender human rights. Action to address discrimination, harassment and hate speech, particularly towards transgender, non-binary and gender diverse New Zealanders." <https://www.tengakaukahukura.nz/un-convention-on-the-rights-of-the-child> See also PRISM: Human Rights issues relating to Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) in Aotearoa New Zealand - A report with recommendations, 2020. "SOGIESC-diverse community leaders have told the Commission that they are concerned about the nature, volume, and harm of hateful speech," "These concerns mirror an international rise in hate speech and hate crimes against SOGIESC diverse communities."

https://www.hrc.co.nz/files/9215/9253/7296/HRC_PRISM_SOGIESC_Report_June_2020_FINAL.pdf.

REFERENCES

⁴ Counting Ourselves Community Report, 2019. Recommendations include: “1. Provide access to gender-affirming healthcare: provide clear pathways, based on informed consent and self-determination, for timely access to gender-affirming healthcare through the public health system, including hair removal, puberty blockers, hormones, fertility preservation, voice therapy, counselling and mental health support and gender-affirming surgeries. 2. Provide access to training and resources to improve primary healthcare providers’ competencies for working with trans and non-binary people, including around gender-affirming care. 3. Work with Māori and Pasifika trans and non-binary people to develop culturally appropriate services built on kaupapa Māori and holistic Pasifika models of care and wellbeing.”

<https://countingourselves.nz/index.php/community-report/>

⁵ Counting Ourselves Community Report, 2019. Recommendations include: Improve trans and non-binary people’s mental health and wellbeing by identifying trans and non-binary people, and the broader rainbow population, as a named priority in the Government’s response to its 2018 Mental Health and Addictions Inquiry, including in national and regional mental health and addictions policies.

⁶ InsideOUT Kōaro: Creating Rainbow Inclusive Schools: Public Report 2019

<http://insideout.org.nz/wp-content/uploads/2019/12/Creating-Rainbow-Inclusive-Schools-Public-Report-2019.pdf>

⁷ The rights of rainbow children in Aotearoa New Zealand: A submission to the UN Committee on the Rights of the Child, Te Ngākau Kahukura, 2020. “Rainbow communities have seen a significant increase in targeted discrimination in the last two years, including organised advocacy against transgender human rights. Action to address discrimination, harassment and hate speech, particularly towards transgender, non-binary and gender diverse New

Zealanders.”<https://www.tengakaukahukura.nz/un-convention-on-the-rights-of-the-child>