Victorian Pride Lobby

5 August 2021

Via email: stalking@lawreform.vic.gov.au

To whom it may concern,

Re: Stalking Consultation Paper

Thank you for the opportunity to contribute to your inquiry into stalking, harassment and similar conduct.

The Victorian Pride Lobby is a community based advocacy group that works towards equality, social justice and advancing human rights for lesbian, gay, queer, bisexual and same-gender attracted Victorians.

We do not speak in the place of trans and gender diverse, intersex and asexual community members, but rather work constructively, cooperatively and respectfully with transgender, intersex, asexual and other community organisations to achieve social change for the LGBTIQA+ community.

Our submission details the prevalence of stalking in LGBTIQA+ communities, barriers to reporting and effective service provision, and providing accessible and need-specific support.

We welcome any opportunity to discuss the issues in this submission further to ensure that the inquiry responds to the needs of LGBTIQA+ Victorians.

Yours sincerely,

Nevena Spirovska and Evie Potter
Co-Convenors, Victorian Pride Lobby

The prevalence of stalking in LGBTIQA+ communities

Under Victorian law, stalking comprises intentional and repeated behaviour directed by one person toward another that is fear-provoking and/or harmful.[1]

Unlike most criminal activities, stalking comprises a series of often legal behaviours. As such, it can be difficult to define and targets of stalking are often unaware of their victim status. In a typical stalking case, behaviour that is not anxiety-provoking in isolation (e.g. phone calls, giving gifts and emailing) can be considered threatening when examined within the context of a multitude of intrusive activities that collectively equate to stalking.

Stalking is often considered to be a form of interpersonal violence, Yet, despite an increase in lesbian, gay, bi+, trans and gender diverse, intersex, queer and asexual (LGBTQA+)-specific research on other forms of interpersonal violence, such as intimate partner violence and sexual assault, there is a relative lack of literature on stalking victimisation of LGBTIQA+ individuals, particularly as it relates to gender identity.

This is problematic because the current research that is available indicates that LGBTIQA+ people, particularly trans and gender diverse people, experience stalking at much higher rates than others.[2] LGBTIQA+ persons are also more likely to experience online harassment than others. For LGBTIQA+ people, victimisation is often associated with the failure of stalkers to understand or accept the target's sexual orientation, gender identity or sex characteristics.

Research suggests different-gender stalker motivations to be mainly rooted in prior intimate relationships, with same-gender stalkers being more motivated by a grievance against the victim and consequent anger and self-righteousness.[3] Evidence also suggests that same-gender stalkers are more likely to follow and approach their victims than different-gender stalkers.[4]

There is a lack of research that provides substantial evaluation and solutions to this issue. However, this submission scopes what can be done to provide resolution and protection for LGBTIQA+ individuals that are victims of stalking.

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[1] *Crimes Act 1958* s 21A.

[2] L Sheridan, A Scott and A Campbell, 'Perceptions and experiences of intrusive behaviour and stalking: Comparing LGBTIQ and heterosexual groups' (2019) 34(7) *Journal of Interpersonal Violence*; S Katz-Wise and J Hyde, 'Victimisation experiences of lesbian, gay and bisexual individuals: A meta-analysis' (2012) 49 *Journal of Sex*.

[3] S Strand and T McEwan, 'Same-gender stalking in Sweden and Australia' (2011) 29 *Behavioural Sciences and the Law*.

[4] L Sheridan, A North and A Scott, 'Experiences of stalking in same-sex and opposite-sex contexts' (2014) 29(6) *Violence and Victims* 1023.

Barriers to reporting and effective service provision

The Consultation Paper asks what the factors are that influence whether people who experience stalking report their experiences to police and what barriers there are to reporting that need to be addressed.

LGBTIQA+ people also have the lowest rates of police reporting of stalking, often due to fears of prejudicial treatment.[5] Among those who do report victimisation experiences to police, many experience indifference or hostility. It is therefore important to understand the barriers to reporting stalking and accessing support services and what can be done to address these barriers.

Knowledge, perceptions and belief

LGBTIQA+ people's individual knowledge, perceptions and beliefs may prevent them from reporting and accessing appropriate support in three ways:

1. Lack of knowledge and connectedness to LGBTIQA+ friendly services, such as Victoria Police's LGBTIQ liaison officers;
2. Lack of confidence in their sexual orientation or gender identity; and
3. Self-blame in relation to their experience of abuse.[6]

Interpersonal factors

In addition to individual knowledge, perceptions and beliefs, there are interpersonal factors that can act to prevent help-seeking:

1. The perpetrator may employ controlling, manipulative, or threatening tactics which are focused on the victim's sexual orientation or gender identity; and
2. There may be concern that accessing services could lead to other undesirable consequences, such as additional harassment, abuse from other family or community members, being 'outed' or relationship fall-out.[7]

Structural barriers

Finally, there may be structural and cultural barriers to accessing appropriate support:

1. Assumptions by police and service providers that those who are accessing services are heterosexual, cisgender and endosex;
2. Gender-binary (women-only or men-only) service provision;
3. An inadequate level of staff diversity, knowledge and skills, which encompasses:

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[5] L Langenderfer-Magruder et al, 'Stalking victimisation in LGBTQ+ adults: A brief report' (2020) 35(5-6) *Journal of Interpersonal Violence* 1443.
[6] S Harvey et al, 'Barriers faced by lesbian, gay, bisexual and transgender people in accessing domestic abuse, stalking, harassment and sexual violence services' (2014) 48 *Government Social Research* 22-24.
[7] *Ibid* 24 -25.

      a. A lack of awareness of same-gender relationships and diversity in sexual orientations; and

      b. A lack of awareness of gender transitioning and the needs of people with variations in sex characteristics.

4. The minimisation of LGBTIQA+ people's experiences of stalking and harassment.[8]

Research indicates that individuals who do not identify within a binary construct of sexual orientation or gender (i.e. bisexual and trans individuals) often face additional barriers to reporting intimate partner violence due to marginalisation because of their non-binary identity.[9] Therefore, using non-binary terms to discuss stalking victimisation aids in allowing individuals to feel comfortable telling their story and for their story to be heard.

Providing accessible and need-specific support

Having identified the barriers, five principles may be utilised to evaluate the effectiveness of support services and legislative frameworks which combat the issue of LGBTIQA+ stalking and harassment and support victims.

Access, visibility, transparency and confidentiality

Access, visibility, transparency and confidentiality are the cornerstones of an effective service.[10]

Services should be accessible remotely to afford greater accessibility by removing the need to physically travel to a location to seek help, particularly where victims want to make first contact for advice and support.

Services should be clearly accredited as LGBTIQA+ friendly or specific, both in promotional material and on the homepages of service provider websites.

Service providers should be encouraged to publish clear information on: (a) what happens when a victim discloses stalking or harassment incidents to them; (b) the content on any forms they will be expected to complete; and (c) the level of confidentiality and anonymity they will be afforded.

LGBTIQA+ inclusiveness

LGBTIQA+ inclusiveness ensures greater reach within the LGBTIQA+ community.[11]

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[8] *Ibid* 27-38.

[9] J Calton, L Cattaneo and K Gebhard, 'Barriers to help seeking for lesbian, gay, bisexual, transgender and queer survivors of intimate partner violence' (2016) 17 *Trauma, Violence and Abuse*.

[10] S Harvey et al, 'Barriers faced by lesbian, gay, bisexual and transgender people in accessing domestic abuse, stalking, harassment and sexual violence services' (2014) 48 *Government Social Research* 48-49.

[11] *Ibid* 49-50.

Service providers should be encouraged to promote their services more inclusively to LGBTIQA+ people, for example, through showing LGBTIQA+ people in their promotional materials or using the rainbow flag.

Support service providers and community organisations should undertake outreach activities targeting LGBTIQA+ people, for example at LGBTIQA+ events, in partnership with LGBTQ+ service providers and community organisations.

LGBTIQA+ service providers and community organisations should be supported in their efforts to promote awareness of issues such as stalking, harassment, sexual violence and domestic violence amongst LGBTIQA+ people. This includes adequate funding for the With Respect program that supports LGBTIQA+ people having and maintaining healthy relationships as well as dealing with experiences of family violence.

Partnerships between service providers and LGBTIQA+ specific organisations should be encouraged and actively fostered.

Service providers should investigate the value of providing specialist LGBTIQA+ workers to LGBTIQA+ victims, with clear plans to provide funding for such initiatives should they prove effective after small-scale trials.

Informed and diverse staff

Informed and diverse staff ensure sensitivity for LGBTIQA+ victims.[12]

Service providers should be supported in their efforts to ensure that their staff can demonstrate an understanding of the life experiences of LGBTIQA+ people, the diversity of sexual orientations, gender identities and sex characteristics, and LGBTIQA+ people's specific experiences of stalking and harassment and sexual violence.

Such support: (a) may include formal training, in collaboration with the LGBTIQA+ and family and sexual violence sectors; (b) should be based on a training needs assessment; and (c) should include measures to ensure that learning is embedded with organisations.

Other public authorities such as the police should be encouraged to develop a similarly informed workforce.

Monitoring and evaluation

Collecting key data is crucial to effective monitoring and evaluation.[13]

Levels of LGBTIQA+ incidences and referrals to support services should be monitored to measure change in LGBTIQA+ access to these services.

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[12] *Ibid* 50.
[13] *Ibid* 50.

Mechanisms to evaluate the effectiveness of support services in addressing the needs of LGBTIQA+ victims should be embedded.

Further research

Recognising the knowledge gaps that exist, further research is needed.[14]

Research should investigate whether a potential lack of programmes for LGBTIQA+ perpetrators, particularly for those who are female and/or trans, may aggravate their outcomes.

Research should also investigate whether there are other specific barriers faced by LGBTIQA+ people, particularly those of minority ethnic backgrounds, in accessing appropriate services for stalking and harassment.

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[14] *Ibid* 51.