

## **Women's Liberation Front (WoLF, Southern Tasmania) Comment On -**

Options Paper, Legal Recognition of sex and gender diversity in Tasmania:  
Options for amendments to the *Births, Deaths & Marriages Registration Act 1999*, Equal Opportunity Tasmania (Options Paper)

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## About WoLF

'WoLF' is an acronym for Women's Liberation Front. WoLF is a radical feminist organisation dedicated to the liberation of women from male supremacy.

The founding beliefs of WoLF are:

- That female humans, the class of people called women, are oppressed by men under a male supremacist system called patriarchy.
- That patriarchy is organised around the extraction of resources from female bodies and minds in the service of men, including reproductive, sexual, emotional, and labour resources.
- That gender is a hierarchical caste system that organises male supremacy. Gender cannot be reformed – it must be abolished.

WoLF works to:

- Halt male extraction of resources from female bodies and minds by regaining reproductive sovereignty, ending male violence, including the sexual exploitation industry, and ensuring that women control the material conditions of their lives.
- Disrupt and ultimately end the propagation and enforcement of the gender hierarchy, because women's liberation can only be achieved when the caste system called gender has been abolished.
- Empower women to organise as a class, including the creation and maintenance of women-only spaces.
- Analyse and resist all systems of oppression, because until all women are free no woman is free.<sup>1</sup>

WoLF Southern Tasmania is the first Australian chapter of the Women's Liberation Front. We established in December 2015.

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<sup>1</sup> Women's Liberation Front, *WOLF Statement of Principles*,  
<<http://womensliberationfront.org/document-statement-of-principles/>>

## Summary of Comment

WoLF strongly opposes recommendations 1, 2 & 3 of the Options Paper. WoLF raises questions about recommendations 5, 7, 8, 12 & 13, which ought to be seriously deliberated before adoption into legislation. WoLF endorses recommendations 9, 10 & 11.

Equal Opportunity Tasmania (EOT) in its Options Paper puts forward a proposal that would allow a person who is unambiguously male or female to change the sex marker on their Birth Certificate to indicate a sex that is not truthfully their sex.

The Options Paper claims the proposed changes would ensure the *Tasmanian Birth, Deaths and Marriages Registration Act 1999* (BDMA) is consistent with the state's *Anti-Discrimination Act 1998* (ADA) on the basis of the ADA's 'gender identity' protections but fails to provide any detail or explanation of *how* the proposed changes to the BDMA would ensure consistency with the ADA.

The Options Paper provides definitions for the terms 'sex', 'gender' and 'gender identity dysphoria' in the Glossary section on page 32. These definitions are abandoned throughout the Options Paper in favour of using the terms 'sex' and 'gender identity' both interchangeably and synonymously. The effect of this is to obfuscate the practical implications of the proposed changes.

The BDMA does not contain any reference to 'gender identity', nor should it. Birth Certificates do not record a person's gender identity; they record biological and familial facts about the birth of a child.

The Options Paper has presented a set of recommendations in an attempt to 'have its cake and eat it too'; to make a change to the biological sex record on the basis of subjective gender identity whilst at the same time insisting they are two entirely different things.

The practical implication of the proposed changes will have damaging effects on the health and social participation of women and girls, yet no consideration of these impacts has been acknowledged in the Options Paper. Women and girls must be considered primary stakeholders in the discussion of any proposed amendments to the sex-change provisions of the BDMA.

The detail of our comment refers to the following issues raised in the Options Paper;

- Issue no. 1: The requirement to undertake gender re-assignment surgery for a change of sex to be recognised.
- Issue no. 2: Arrangements for correcting a record of sex.
- Issue no. 4: The age and approval requirements for young persons to have a change of sex or name registered.
- Issue no. 8: The requirement that a birth certificate issued by the Registrar include a notation that the person was previously registered as another sex unless the person requests the issue of an extract from the Registrar which does not include that notation.<sup>2</sup>

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<sup>2</sup> See page 5 of the Options Paper for a list of the 'Issues'

## General Comment

### Claims to Address Discrimination and Clarify 'Sex' & 'Gender'

The Options Paper claims the proposed changes would ensure the Tasmanian Birth, Deaths and Marriages Registration Act 1999 (BDMA) is *consistent* with the state's Anti-Discrimination Act 1998 (ADA), as amended from 1 January 2014; 'Those amendments extended protections to people with intersex variations and clarified the protections available on the basis of gender identity'.<sup>3</sup>

The Options Paper does not provide any detail or explanation of *how* the proposed changes to the BDMA would ensure consistency with the ADA - the reader must assume it to be so without question. The Options Paper also fails to articulate how the proposed changes would reduce discrimination against transgender individuals.

One of our members contacted Equal Opportunity Tasmania (EOT) via email to clarify the substance of this claim in order to adequately respond to it. In reply, a representative of EOT made the following additional claim:

'Changes to the Anti-Discrimination Act 1998 (Tas) which took effect on January 1 2014 clarify that alterations to a person's gender identity are not dependent on undergoing sexual reassignment surgery.....

....In this way the *difference between sex and gender identity* are now more clearly articulated'

The Interpretation section of the ADA was cited by EOT as the source of these claims. Statistical classification categories from the Australian Bureau of Statistics and the Australian Government Guidelines on the Recognition of Sex and Gender were also cited to clarify EOT's approach to 'sex' and 'gender identity'.<sup>4</sup>

We will respond to both of the above claims in turn.

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<sup>3</sup> Options Paper, page 1.

<sup>4</sup> See Appendix 4 – Email Exchange, EOT (25/02/2016) Reply No.2.

## The 'Consistency' Claim

In response to the claim that 'changes to the Anti-Discrimination Act 1998 (Tas).....clarify that alterations to a person's gender identity are not dependent on undergoing sexual reassignment surgery' we examined the cited Interpretation section of the ADA and found:

'gender identity means the gender-related identity, appearance or mannerisms or other gender-related characteristics of an individual (whether by way of medical intervention or not), *with or without regard to the individual's designated sex at birth*, and includes transsexualism and transgenderism' (our emphasis) and -

'transgender means a person who -

(a) does not identify, to whatever degree, with the *gender identity assigned them at birth*; and

(b) at times, or permanently, has a gender identity which might be perceived as atypical for his or her *birth gender*;

EOT claims that a 'change in gender identity', for the purposes of the ADA, is not dependent on undergoing sexual reassignment surgery and that **this is what makes the recommended changes to the BDMA consistent with the ADA**<sup>5</sup>.

We contest this claim. The ADA does not make any reference to a 'change in gender identity', nor does it make reference to a 'change of sex'. The ADA defines 'gender identity' as personal characteristics based on sex stereotyping '*with or without regard to the individual's designated sex at birth*'<sup>6</sup>, implicitly recognising that 'gender identity' is **not** synonymous with 'sex' and dependent only on a person's subjective identifications or predilections<sup>7</sup>.

The proposed changes to the BDMA would codify 'gender identity' as synonymous with 'sex'. This is in contravention of the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)<sup>8</sup>, which requires signatory states to take all measures to end practices 'which are based on the idea of the inferiority or the superiority of either of the sexes *or on stereotyped roles for men and women*'<sup>9</sup>.

The conflation of 'gender identity' and 'sex' would result in a woman being defined as a person who has a particular appearance, mannerisms or characteristics<sup>10</sup> most of which are defined according to feminine stereotypes. As explained by Brennan & Hungerford:

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<sup>5</sup> See Appendix 4 – Email Exchange, EOT (25/02/2016) Reply No.1.

<sup>6</sup> See ADA, s3, 'gender identity means the gender-related identity, appearance or mannerisms or other gender-related characteristics of an individual (whether by way of medical intervention or not), with or without regard to the individual's designated sex at birth, and includes transsexualism and transgenderism'. NOTE: A persons 'appearance or mannerisms' can only be understood as related to 'gender' in reference to sex-stereotypes.

<sup>7</sup> The Act does not provide any procedure for objective determination of a persons 'gender identity', therefore it must be assumed is wholly subjective.

<sup>8</sup> To which Australia is signatory.

<sup>9</sup> UN Women, CEDAW, Article 5,

<<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>>.

<sup>10</sup> See above, n5.

‘such definitions codify the notion of stereotypes based on sex into law. Traits stereotypically assigned to females - such as caretaking, emotionalism, and weakness – have served as sufficient legal justification for women’s exclusion from employment, participation in government, and many other critical social functions. Archaic stereotypes are directly responsible for the denial of female credibility and intellectual authority, in addition to causing the historical marginalisation of females, lower social status vis-a-vis males, and lack of power to engage equally with males’.<sup>11</sup>

**The only definition of ‘female’ that does not rely on sex stereotypes for its meaning is to define it in relation to biological sex.**

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<sup>11</sup> Brennan, Cathy & Hungerford, Elizabeth, *Letter to UN Women – Human Rights Section*, <[https://radicalhubarchives.files.wordpress.com/2011/08/communication\\_csw\\_un\\_brennanhungerford\\_08012011\\_.pdf](https://radicalhubarchives.files.wordpress.com/2011/08/communication_csw_un_brennanhungerford_08012011_.pdf)>.

## Clarifying or Confusing 'Sex' and 'Gender'?

The Options Paper addresses proposals for changes to the BDMA and its change of 'sex' provisions - not 'gender identity' provisions. For the reasons already discussed we believe 'sex' for the purpose of the BDMA should be defined in relation to biological sex only. The BDMA does not contain any reference to 'gender identity', nor should it. Birth certificates do not record a person's gender identity; they record biological and familial facts about the birth of a child.

In the absence of any clarity from EOT about the substance of their 'consistency' claim, it is difficult to surmise why they consider it necessary for the BDMA to be consistent with the ADA, or indeed how that could be achieved, and whether it would reduce discrimination against transgender individuals. We are unable to adequately understand the content of the Options Paper in this regard largely because of its incoherent use of language.<sup>12</sup>

The definitions provided in the Options Paper for the terms 'gender', 'gender identity dysphoria' and 'sex', indicate 'gender' and 'sex' are to be considered as distinct characteristics - following the definitions provided by the ABS<sup>13</sup> and the Australian Government Guidelines on the Recognition of Sex and Gender, which clearly state that 'a person's sex and gender may not necessarily be the same'<sup>14</sup>.

To demonstrate EOT's inconsistent and incoherent use of these terms, in further email correspondence EOT claimed, in relation to the BDMA sex change provisions, that:

"These provisions have been used, however, to register a *change of gender identity* in circumstances where a person has undergone sexual re-assignment surgery. The aim of the options outlined in the Commissioner's paper are to bring these provisions into line with current approaches, including removing the need for sexual reassignment surgery as a prerequisite for a *change of sex* to be registered. There are broadly two reasons why this is unacceptable. The first being that surgical intervention should not be a pre-requisite for legal recognition of a *change of gender identity* for the reasons we have outlined..."<sup>15</sup> (our emphasis)

The representative of EOT in this instance used the terms 'sex' and 'gender identity' interchangeably, yet attempted to maintain some imprecise and non-defined distinction between them. When asked whether 'sex' and 'gender identity' had been used synonymously in the Options Paper (in an attempt to clarify the confusion caused by the inconsistent use of the terms throughout the Options Paper and the email correspondence) the response from EOT was:

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<sup>12</sup> Please see Appendix 3 - Inconsistency of Language in the Options Paper.

<sup>13</sup> Australian Bureau of Statistics, *The Sex and Gender Classifications and Classifications Criteria*, <<http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/1200.0.55.012Main%20Features212016?opendocument&tabname=Summary&prodno=1200.0.55.012&issue=2016&num=&view=>>>.

<sup>14</sup> Attorney-General's Department, *Australian Government Guidelines on the Recognition of Sex and Gender*, Key Terms – Gender, <<https://www.ag.gov.au/Publications/Documents/AustralianGovernmentGuidelinesontheRecognitionofSexandGender/AustralianGovernmentGuidelinesontheRecognitionofSexandGender.PDF>>.

<sup>15</sup> See Appendix 4 – Email Exchange, EOT (25/02/2016) Reply No.1.

‘the terms sex and gender have in many settings been confused over the years – in our Act, at the federal level and in relevant Acts such as those registering births deaths and marriages. For most of the population the gender we are assigned at birth matches their (sic) biological sex... The changes that are proposed for the BDMR Act and those that are contained within our own Act are aimed at clarifying these issues, i.e., the difference between sex and gender.’<sup>16</sup>

This is an explicit recognition from a representative of EOT of a difference between ‘sex’ and ‘gender’, yet the proposal of EOT through its Options Paper is for the BDMA change of ‘sex’ provisions to become ‘consistent’ with The Anti-Discrimination Act on the basis of the ADA’s ‘gender identity’ protections.

As explained above, this requires that the terms ‘sex’ and ‘gender identity’ are either considered synonymous, or, that a person’s internally felt ‘gender identity’ is the *single factor* that determines their ‘sex’ (which would also be at odds with the objective requirements in establishing ‘sex’ as defined by the Options Paper Glossary).

When asked to explain how the proposals would clarify the difference between ‘sex’ and ‘gender’, as claimed by EOT, the response was:

‘The way the law is currently structured...does not enable a transgender person to have their authentic gender identity reflected in their legal identification documents unless they can provide proof of surgery. As our paper outlines, this is discriminatory and at odds with commitments by the Tasmanian Government and other jurisdictions to remove discrimination in this area’.

Again, precisely *how* this is discriminatory is not actually explained in the Options Paper, nor did EOT or the Anti-Discrimination Commissioner answer this specific question in further email communication.<sup>17</sup>

In fact, **no person** has their ‘authentic gender identity’ reflected in their legal identification documents because, as already noted, birth certificates do not record a person’s gender identity; they record biological and familial facts about the birth of a child.

**WoLF does not believe it is discriminatory for a person to have a sex marker that accurately reflects their biological sex, irrespective of their ‘gender identity’ and any subjectively perceived ‘match’ or ‘mis-match’ between the two.**

Although the words ‘sex’ and ‘gender identity’ have been used both synonymously and interchangeably throughout the Options Paper and by EOT in the email communications detailed in Appendix 4, both terms are clearly defined as separate concepts in the Glossary section of the Options Paper.

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<sup>16</sup> See Appendix 4 – Email Exchange, EOT (25/02/2016) Reply No. 3.

<sup>17</sup> See Appendix 4 – Email Exchange, EOT (02/03/2016).

'Sex' in the Options Paper is defined as 'the chromosomal, gonadal and anatomical characteristics associated with biological sex characteristics'.

**But, the Options Paper is putting forward a proposal that would allow a person who is unambiguously male or female to change their birth certificate to indicate a sex that is not truthfully their sex.**

In defining 'transgender' the ADA refers to '*gender identity assigned them at birth*' and '*birth gender*'. In regard to EOT's claim that '(T)he changes that are proposed for the BDMR Act and those that are contained within our own Act are aimed at clarifying these issues, i.e., the difference between sex and gender', we make the following observations:

First, the ADA is factually incorrect in asserting that people have a '*gender identity assigned them at birth*'. As has already been noted, a birth certificate indicates the 'sex', not the 'gender identity' of the newborn infant.

Second, children are socialised, over a period of years, into a gender role on the basis of their sex. These roles can include expectations grounded in sex-role stereotyping that are not a natural result of their sex. We acknowledge that in the case of some people with intersex conditions, real mistakes about a person's sex may be made on a birth certificate. The Options Paper notes there are provisions in the BDMA allowing for such errors to be corrected and we agree they should remain.<sup>18</sup> However, for most transgender people there is no ambiguity in their biological sex, as noted by the 'sex' marker on their birth certificate.

The BDMA does not provide a definition of 'sex', therefore the plain and literal meaning of the word should be adopted in interpretation thereof.

The Merriam Webster online dictionary defines 'sex' as:

- 1 : either of the two major forms of individuals that occur in many species and that are distinguished respectively as female or male especially on the basis of their *reproductive organs and structures*
- 2 : the sum of the structural, functional, and behavioral characteristics of organisms that are involved in *reproduction* marked by the union of gametes and that distinguish males and females<sup>19</sup>

Similarly, the Online Oxford Dictionary provides the following definition:

- 'Sex....
- 2 Either of the two main categories (male and female) into which humans and most other living things are divided on the basis of their *reproductive functions*'<sup>20</sup> (our emphasis)

'Sex' in its plain and literal meaning refers to the reproductive categories of 'male' and 'female' in sexually reproductive species (including humans), regardless of any

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<sup>18</sup> Options Paper, *Correcting a Record of Sex*, page 12.

<sup>19</sup> <http://www.merriam-webster.com/dictionary/sex>

<sup>20</sup> <http://www.oxforddictionaries.com/definition/english/sex>

individual's fertility/infertility, or choice to reproduce or not. Internally felt 'gender identities' do not inform reproductive categories in any sense.

The basis for the claim that a male person may hold a gender identity of 'female' is based in sex-role stereotyping that insists there is something inherently 'female' about particular feelings or personality traits.

The proposals contained in the Options Paper seek to conflate 'sex' with 'gender identity'. For a person to be legally recognised as a sex that is not their true biological sex, but one based on subjective identifications or predilections, is to codify the meaning of 'sex' as a *subjective feeling*, rather than an *objective reproductive category*.

WoLF recognises that in the case of some individuals, sex dysphoria may be alleviated by social and medical transition, and legal change of sex marker. We do not advocate the removal of this ability, but see physical transition as a reasonable requirement.

**To codify 'gender identity' as the single defining factor in determining one's legal sex, is to codify sex stereotypes into law.<sup>21</sup>**

The practical consequences, should the change of sex proposals in the Options Paper be adopted, have been obfuscated by this imprecise, inconsistent and incoherent use of language. Not only does this cause great difficulty for the general public in understanding the legal ramifications of the proposed changes, it creates enormous challenges for those who wish to make an orderly comment on the proposals.

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<sup>21</sup> In contravention of CEDAW, Article 5. See above n8.

## The Practical Implications: Harms to Women & Girls

The Options Paper makes no reference to the possible legal implications the proposed changes may have for the protection of women and girls under the ADA. WoLF believes these implications could be significant.

Prior to preparing this Comment a representative of WoLF contacted EOT for advice about how the proposed changes to the BDMA would impact the protections afforded to females under the ADA. EOT provided no specific response, and requested that concerns be outlined in a written submission.

### **Our primary concern is the removal of legally recognised female-only spaces and services.**

Female-only spaces exist because women require the safety and security of places where men are not present. Tasmania's anti-discrimination laws currently accommodate this need on the understanding that women, as a group, require such spaces to ensure equal opportunity, and social, political and economic participation.<sup>22</sup>

There are fifteen women-only services operating in Tasmania at present that have received exemptions under the ADA.<sup>23</sup> Women-only spaces are currently designated as such according to sex, not gender identity.

### **There has been no recognition in the Options Paper of the impact the proposed changes may have on the social, political and economic participation of women and girls and their particular need for sex-segregated spaces.**

Because the proposed changes would mean a person's legal sex is subjectively determined - being based entirely on self-identification - women would be prevented from accessing any legal remedy in defining the boundaries of their female-only spaces; effectively allowing *any* male the ability to access those spaces if they were to self-identify their sex as 'female'.

Further, if the proposed changes are adopted into legislation, consideration of whether there will be a *positive requirement* for transgender persons who wish to access female-only or male-only services and spaces to change the 'sex' on their birth certificate has not been addressed. That is, will transgender individuals benefit from a change in the legislation with no corresponding obligations?

In addition to concerns about the legal implications of these changes, as feminists we are also concerned with ensuring women's social advancement and liberation. Conflating sex and gender promotes sex stereotypes and prioritises gender identity and subjective experience over physical, biological reality. Having a physically female body impacts upon the experiences of women - in matters such as the

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<sup>22</sup> ADA, s56.

<sup>23</sup> See Appendix 1 - Tasmanian exemptions to sex-discrimination; See also Appendix 2 - On Commonwealth Exemptions to Sex-Discrimination.

stigmatisation of female bodies and bodily functions, reproductive health and rights, and the sexual violence committed against women and girls by men.<sup>24</sup>

**Legally removing reference to female bodies and biology from the definition of 'female' will have social ramifications for women and girls, making it impossible for the material and biological existence of women to be identified as a source of unjust discrimination and social and economic inequality.**

WoLF contacted EOT for comment about possible global implications of the proposed changes to the BDMA for women and girls. As noted above, EOT did not provide any further response, and requested that concerns be outlined in a public comment submission.

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<sup>24</sup> Bree Cook, Fiona David & Anna Grant, *Sexual Violence in Australia* (2001) Australian Institute of Criminology <[http://www.aic.gov.au/media\\_library/publications/rpp/36/rpp036.pdf](http://www.aic.gov.au/media_library/publications/rpp/36/rpp036.pdf)>. (98 percent of sex offenders apprehended by police across five Australian Jurisdictions (Victoria, Queensland, South Australia, Western Australia and Tasmania) were male; 'Females represented 79 per cent of sexual assault victims recorded by police')

## Comment on Recommendations

### 1. Change-of-Sex Provisions (Recommendations 1, 2, 3, 4, 5, 6, 7 & 8)

*(Including: Sexual reassignment surgery, Options to register a change of sex, Correcting a record of sex, Requirement not to be married, Age at which change of sex application can be made, Parental approval of sex and name changes)*

#### Recommendation No.1

*'That the requirement for sexual reassignment surgery before a person can register their change of sex under the Births, Deaths and Marriages Registration Act 1999 (Tas) be removed.'*

WoLF strongly opposes Recommendation No. 1 in favour of maintaining the current provisions.

#### Recommendation No.2

*'That there be no requirement for surgical, medical or hormonal treatment to change sex classification'*

WoLF strongly opposes Recommendation No. 2 in favour of maintaining the current provisions.

The purpose of the Register (birth record) is to accurately record a person's sex. If a person who is unambiguously male, according to the ordinary meaning of the word, is able to change their legal sex to 'female' it radically alters the meaning of the word 'sex' under law.

#### Recommendation No.3

*'That the requirements for an application to the Registrar to record a change of sex be consistent with the approach taken to registering a change of name, including limiting the option of registering a change of sex to once in a 12-month period'*

WoLF strongly opposes Recommendation No. 3 in favour of maintaining the current provisions.

**Unlike a change of a name, a change of sex alters legal relations between people.** An individual changing their name has no bearing on the legal rights of others – a change of name is not comparable to a change of legal sex. Such a comparison is spurious at worst, and naively ill considered at best.

As previously noted, WoLF is concerned about the impact the recommended changes to the BDMA could have on the sex-based protections currently provided to women and girls under the ADA. Furthermore, if it is possible for an individual's gender identity to be legally changed once every twelve months, the claim of an entitlement to have these changes included in cardinal documents, which reflect unchanging facts about a person's social identity and are apparently 'authentic' documentations of such identities, is disingenuous.

#### **Recommendation No. 4**

*'That section 28A of the Births, Deaths and Marriages Registration Act 1999 (Tas) be amended by omitting from subsection 1(c) the requirement to not be married.'*

WoLF does not object to Recommendation 4. We support the right of same-sex couples to marry.

#### **Recommendations No. 5, 7 & 8**

##### **Recommendation No. 5**

*'That the age at which a person can apply to have a change of sex registered be aligned with the legal principles expounded by the Family Court in Re: Lucy (Gender Dysphoria) [2013] FamCA 518 (12 July 2013); Re: Sam and Terry (Gender Dysphoria) [2013] FamCA 563 (31 July 2013) and confirmed by the Family Court of Australia – Full Court in Re: Jamie [2013] FamCAFC 110 (31 July 2013).'*

##### **Recommendation No. 7**

*'Provisions be introduced in the Births, Deaths and Marriages Registration Act 1999 (Tas) to require a child's informed consent to applications by a parent(s) or legal guardian to register a change of sex of a young person over 12 years of age.'*

##### **Recommendation No. 8**

*'In situations where two parents dispute an application to have a change of name or change of sex registered relating to a child over 12 years of age, the law be amended to allow the application of one parent to be accepted as long as it is accompanied by the informed consent of the child to whom the application relates.'*

The Options Paper apparently accepts claims that puberty blockers are harmless and reversible when given to children. This is incorrect and contradicts mainstream medical opinion.<sup>25</sup> Puberty blockers carry both known and unknown risks. It is extremely disappointing and disturbing that blatant misinformation has been included in the Options Paper, particularly regarding matters involving children.

Children under eighteen years of age in Tasmania are currently subject to a different Justice Act than that applicable to adults. They are unable to consent to a number of actions and activities due to reduced capacity for reasoned decision making. Recommendations No. 5, 7 and 8 all assume a maturity and capacity in young people regarding their 'gender identity' that is not assumed in other areas of law.<sup>26</sup>

While few studies about the long-term outcomes for transgender children are available, those that do exist strongly indicate that most transgender children do not grow up to be transgender adults.<sup>27</sup>

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<sup>25</sup> See eg. American College of Pediatricians, 'Gender Ideology Harms Children', <<http://www.acpeds.org/the-college-speaks/position-statements/gender-ideology-harms-children>>.

<sup>26</sup> See eg Criminal Code Act 1924 (TAS), s18, s124.

<sup>27</sup> WPATH Consensus process regarding transgender and transsexual-related diagnoses in ICD-11, 31 MAY 2013; Critique and Alternative Proposal to the "Gender Incongruence of Childhood" Category in ICD-11, GATE Civil Society Expert Working Group; Report of the Task Force on Appropriate Therapeutic Responses to Sexual Orientation, APA Task Force on Appropriate Therapeutic Responses to Sexual Orientation, 2009, Washington, DC, American Psychological Association; Report of the APA Task Force on Treatment of Gender Identity Disorder, Approved by the Joint Reference Committee, July 2011; Management of the transgender adolescent. Olson J, Forbes C, Belzer M. Arch Pediatr Adolesc Med. 2011 Feb, 165(2), 171-6; Gender Variance: An Ongoing

As adults, the vast majority of ‘transgender children’ go on to identify as gay or lesbian. Wallien and Cohen-Kettenis (2008) found that:

‘Most children with gender dysphoria will not remain gender dysphoric after puberty. Children with persistent GID are characterized by more extreme gender dysphoria in childhood than children with desisting gender dysphoria. With regard to sexual orientation, the most likely outcome of childhood GID is homosexuality or bisexuality’.<sup>28</sup>

Allowing children under eighteen years of age who display gender variance to make potentially life-altering decisions in the face of such evidence is irresponsible.

WoLF is in full support of gender non-conforming children being given a protected legal status within society, though current evidence strongly suggests that medical and social transition are not in the best interests of the majority of children.

#### **Recommendation No. 6**

*‘That the age at which a person can apply to have a change of name registered be lowered to 16 years of age.’*

WoLF has no objection to Recommendation No.6. A change-of-name does not affect legal relations between people and is easily reversible.

## **2. Recognition of Intersex (Recommendations 9, 10 & 11)**

#### **Recommendation No. 9**

*‘That section 15 of the Births Deaths and Marriages Registration Act 1999 (Tas) be amended to provide discretion to the Registrar to extend the time within which a birth must be registered.’*

WoLF endorses Recommendation No.9.

#### **Recommendation No. 10**

*‘That parents and health practitioners involved with the care of the child for whom it is not possible to provide an immediate sex classification be provided with information and appropriate contacts within the intersex community and others with relevant expertise.’*

WoLF endorses Recommendation No.10.

#### **Recommendation No. 11**

*‘That treatment or any intervention primarily undertaken to modify or ‘normalise’ the visible or apparent sex characteristics of children for psychosocial reasons be classified as ‘special medical procedures’, and require consent of a Tasmanian board or tribunal such as the Guardianship and Administration Board informed by experts on gender and sex diversity.’*

WoLF endorses Recommendation No.11.

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Challenge to Medico-Psychiatric Nosology by Rosario, Vernon A. (2011) Journal of Gay & Lesbian Mental Health, 15: 1, 1-7.

<sup>28</sup> *Psychosexual Outcome of Gender Dysphoric Children* by Madeleine S.C. Allien & Peggy T. Cohen-Kettenis, J. AM. Academy of Child Adolescent Psychiatry, 47:12, Dec 2008.

### 3. Categories for the Registration of a Person's Sex (Recommendations 12, 13, 14 & 15)

#### Recommendation No. 12

*'That the Tasmanian Government require all public authorities to review their requirements to collect information regarding sex and gender with the intention of removing this requirement whenever possible.'*

#### Recommendation No. 13

*'That the Tasmanian Government only collect information about a person's biological sex where there is a legitimate need to do so.'*

In most areas of service provision, detailed, accurate and up-to-date information about the number and demographic character of the relevant persons and social groups is recognised as essential.

In the case of race or religion, for instance, such information is used to better meet people's needs. Information pertaining to sex is not any different. Women as a class have social, health and legal needs that are often clearly distinct from those of men. It is therefore reasonable to collect information based on biological sex, rather than on 'gender identity'.

In the case of transgender and gender diverse people, collection of information on both sex and gender identification may be particularly helpful in the provision of targeted support and services, particularly as in many areas transgender people remain a small minority with specific needs.

WoLF questions the usefulness of this recommendation in reducing the specific discrimination against women, girls and transgender and gender diverse persons. Such individuals have particular needs specific to those groups, which could be more adequately met with accurate information.

#### Recommendation No. 14

*'That, where it is considered necessary to know a person's sex or gender, information be collected regarding the person's gender and options be available for a person to identify their gender as other than male or female by the introduction of a 'non-binary' classification category.'*

WoLF supports Recommendation No.14 in the case of individuals with substantiated intersex conditions.

Where an intersex condition is *not* present, please refer to our comments on Recommendation No.13 with regard to the importance of sex-based data collection, as opposed to *gender*-based.

#### Recommendation no. 15

*'That the classification of sex in the Register of Births, Deaths and Marriages be extended to include a new category referred to as X meaning 'non-binary'.'*

WoLF supports Recommendation No.15 in the case of individuals with substantiated intersex conditions.

## 4. Birth Certificates (Recommendation 16)

### Recommendation No. 16

*‘That historical data relating to a person’s previous sex or gender not be included on corrected or amended birth certificates unless requested by the applicant.’*

Whilst reiterating our opposition particularly to Recommendations No. 1 and 2, WoLF has no objection to Recommendation No. 16.

## Conclusion

Adopting the recommendations detailed in the Options Paper would change the meaning of ‘sex’ under law, from a marker of the potential reproductive capacity of a person, to an unknowable, subjective and unprovable ‘feeling’ that a person claims.

To exclude the interests and perspectives of females from the discussion of legislative changes in relation to the legal recognition of sex, unfairly impacts females in a way that it does not impact males.<sup>29</sup> To perceive these female perspectives as secondary to the interests of people who transgender is to discriminate against females in the political process by marginalising the female perspective on sex and gender.

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<sup>29</sup> See Appendix 1. NOTE: Males do not rely on sex-segregation for access to essential services to the same degree as females.



## APPENDICES

### APPENDIX 1: Tasmanian exemptions to sex-discrimination<sup>30</sup>

#### LIST 1: Current Anti-Discrimination Exemptions in Tasmania (on the basis of requiring 'women-only' services or spaces):

1. Jireh House Association Inc
2. Women's Legal Service (Tasmania) Incorporated
3. Karinya Young Women's Service Inc
4. Launceston City Mission Inc (also in list 2)
5. Thomas Henry Reid Music Foundation
6. Warrawee Committee Inc (Warrawee Women's Shelter)
7. Archdiocese of Hobart
8. Yemaya Women's Support Service Inc
9. Launceston Women's Shelter Inc (Magnolia Place LWS)
10. Hobart Women's Health Centre
11. Anglicare Tasmania Inc
12. North and North West Tasmania Sexual Assault Support Service Inc (Laurel House North and North West)
13. Hobart City Council (also in list 2)
14. Hobart Women's Shelter Inc
15. SHE Inc

#### LIST 2: Current Anti-Discrimination Exemptions in Tasmania (on the basis of requiring 'male-only' services, employees or spaces):

1. Launceston City Mission Inc (also in list 1)
2. Hobart City Council (also in list 1)
3. Bethlehem House Inc

Only one (1) organisation sought an exemption to the ADA on the basis of requiring an exclusive male-only service. The other two (2) organisations in List 2 also sought exemptions for female-only services.

Thirteen (13) organisations were granted an exemption on the basis of requiring an exclusive female-only service, with a further two (2) being granted exemptions for female-only services *and* male-only services. This is *prima facie* evidence that females are more reliant on female-only services in order to achieve equal health and social participation outcomes. To deny females the ability to exclude male transgender persons from these services and physical spaces, by allowing for the self-definition of legal sex despite objective reality to the contrary, would be discriminatory towards females in the sense that females require this security and safety more than males. To exclude the interests and perspectives of females from the discussion of legislative changes in relation to the legal recognition of sex, unfairly impacts females in a way that it does not impact males.

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<sup>30</sup> See [http://equalopportunity.tas.gov.au/current\\_exemptions](http://equalopportunity.tas.gov.au/current_exemptions)

## APPENDIX 2: On Commonwealth Exemptions to Sex-Discrimination

'In deciding whether to grant an exemption, the Commission will consider all of the relevant circumstances and apply the following criteria:

(b) Is granting an exemption consistent with the objects of the Sex Discrimination Act?

The Commission must consider the objects of the Sex Discrimination Act, set out in section 3. In broad terms, these objects are to:

- **Give effect to the object and spirit of the Convention on the Elimination of All Forms of Discrimination against Women;**
- Eliminate, as far as possible, discrimination against persons on the ground of sex, marital status, pregnancy, potential pregnancy or family responsibilities, including discrimination involving sexual harassment; and
- Promote recognition and acceptance within the community of the principle of the equality of men and women.'<sup>31</sup>

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<sup>31</sup>See <https://www.humanrights.gov.au/temporary-exemptions-under-sex-discrimination-act-1984-cth>

### APPENDIX 3: Inconsistency of Language in the Options Paper

**Despite the Options Paper's correct assertion that *'it is important to ensure consistent definitions are used in legislation...'*<sup>32</sup> the paper itself fails to put forward legislative recommendations that reflect this principle.**

Following is a list of occasions we have identified where the Options Paper used the terms 'sex', 'gender' or 'gender identity' inconsistently with the definitions provided in the Glossary section:

Page 6 - 'The effect of the current provisions is that a transgender person who has not had sexual reassignment surgery and/or who remains married is not able to obtain official recognition from the Registrar of their gender identity';

Page 9 - 'The least burdensome requirement for recognising a change of sex would be to rely on self-identification as the only criterion for recording a change of sex. This approach would essentially involve the applicant making a formal statement to the Registrar that they have changed their gender identity...';

Page 10 - 'A third option would be to require that, in addition to the formal application made by the person seeking registration of a change of sex, the applicant supply an affidavit or statutory declaration from one or more family members or associates who attest to the transition the applicant has made...This may not always be available to the applicant: they may be estranged from their family, or their family members may not acknowledge their gender identity.';

Page 10 - 'A further option would be to require a statement from a health practitioner affirming a change of sex...While a requirement to seek confirmation of a change of sex from a medical practitioner may provide a level of independent verification, it assumes the person who wishes to alter their sex registration details has done so with the involvement of a medical practitioner. The effect of which is to continue to 'medicalise' gender transitioning...';

Page 11 - 'This is the approach taken by the Australian Government, which will accept a statement from a registered medical practitioner or a registered psychologist or a valid Australian Government passport which specifies their correct gender.'

(NOTE: Australian Passports have a 'sex' marker, not a 'gender' marker)

Page 11 - 'To remove discrimination on the grounds of gender identity and intersex, the procedure for changing a person's registered sex should be as clear and simple as possible.

Page 12 - 'The practical effect of this provision is to require a married person who has undergone a gender transition to seek a divorce before being entitled to have their change of gender recognised.' (re: Requirement not to be married)

Page 15 - 'A child who identifies with a gender that is not consistent with his or her biological sex is generally given treatment in two stages..'

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<sup>32</sup> Options Paper, page 31.

(NOTE: This statement assumes that ‘gender’ and ‘sex’ must be brought into alignment, whilst also asserting that ‘gender’ is not equivalent to ‘sex’)

Page 15 - ‘The first stage involves the provision of puberty-blocking medication, which delays the onset of puberty in the child’s sex of birth.

The second stage involves cross-hormone treatment—usually testosterone or estrogen—aimed at encouraging the development of physical characteristics of the child’s identified gender.’

NOTE: ‘Gender’ is defined in the Glossary as:

‘part of a person’s social and personal identity. **It refers to each person’s deeply felt internal and individual identity.** A person’s gender may be **reinforced** by their outward social markers, including their name, outward appearance, mannerisms and dress. A person’s physical characteristics may not be typically associated with their gender. An individual’s gender may or may not correspond with the sex or gender assigned at birth and some people may identify as neither woman nor man or both woman and man.’ (our emphasis)

According to this definition, ‘gender’ does not have ‘physical characteristics’ but may be reinforced by physical characteristics.

**This assumption is based entirely on sex stereotyping.**

Page 15 - ‘the Court’s involvement in matters related to a child’s gender identity are becoming increasingly common’

(NOTE: comment made in relation to recommendation to lower age at which a child can legally change sex)

Page 24 - ‘In situations where an individual seeks to correct the Register because the sex assigned at birth is inaccurate, or amend the Register to record a gender identity different from the sex assigned at birth, it is important the available categories of registration provide sufficient flexibility to correctly record accurate information about the person’s sex or gender identity’

(NOTE: The Register does not contain any reference to ‘gender identity’, nor should it. Birth Certificates do not record a person’s gender identity; they record biological and familial facts about the birth of a child.)

Page 24 - ‘This sanctions the right of a person who medically or surgically transitions from one gender to another to be recognised as ‘non-specific’ in situations where they identify as being neither male nor female.

(NOTE: this is in relation to the Registers ‘Sex’ category)

Page 25 - ‘The Australian Passport Office is able to issue passports that show a person’s sex as male, female or X, with X indicating the person’s gender is indeterminate, unspecified or intersex.’

Page 25 - 'Sex reassignment surgery is not a pre-requisite to the issuing a passport in a new gender, nor do birth or citizenship certificates need to be amended for sex- or gender-diverse applicants to be issued a passport in their preferred gender.'

(NOTE: Australian passports indicate a sex category. If the above statement were to replace the word 'gender' with 'sex', this would be a true statement. It would also demonstrate the absurdity of a person having a 'preferred sex' recognised by law. Our sex is not something we can select or preference - it just is.)

Page 29 - 'The requirement to disclose a person's gender history by including a notation on the birth certificate of those who have registered a change of sex... It is my view that historical data relating to a person's previous sex should not be included on corrected or amended birth certificates unless requested by the applicant'.

Page 31 - 'Similarly, references to 'transsexuals' may be considered to reinforce outdated notions that a change of gender identity requires surgical intervention'

(NOTE: Many self-defined 'transexuals' prefer the term because it is a more precise reflection of their experience of sex-dysphoria or 'sex-identity' - an experience tied to their experience of their body - rather than the term 'transgender', which relies on sex-stereotyping for its meaning).

## APPENDIX 4: Email Exchanges

Below is a record of an email exchange between a member of WoLF and a representative of Equal Opportunity Tasmania.

**WOLF (24/02/2016) No.1:** I am in the process of compiling a comment on the Options Paper re: Legal Recognition of Sex and Gender Diversity in Tasmania.

I just wanted to clarify the meaning of a statement in the paper so that I may adequately respond to it. On pg 1 of the report it states: 'Proposed changes would ensure the BDMA is **consistent** with the Anti-Discrimination Act 1998 (Tas) as amended from 1 January 2014. Those amendments extended protections to people with intersex variations and clarified the protections available on the basis of gender identity'.

On page 6, it is noted that 'the requirement to undergo sexual reassignment surgery should be removed.....(because)...it is out of step with discrimination law.'

I understand that Sc16(e) was amended to include 'gender identity' & 'intersex' as protected characteristics.

'Gender Identity' is defined in the interpretation section of the Anti-Discrimination Act to mean 'the gender-related identity, appearance or mannerisms or other gender-related characteristics of an individual (whether by way of medical intervention or not), **with or without regard to the individual's designated sex at birth**, and includes transsexualism and transgenderism' (my emphasis).

The definition in the Anti-Discrimination Act differentiates the notion of 'gender identity' from 'sex', implicitly considering them as separate attributes of a person. The Options Paper however, seems to use 'gender identity', 'gender' and 'sex' as synonyms in its claim that 'the Anti Discrimination Act does not require a person to have sexual reassignment surgery....before their gender identity is recognised' (pg 7). A birth certificate does not indicate 'gender identity', but 'sex'.

So, I am wholly unclear what is meant by 'consistency', as the anti-discrimination legislation seems to implicitly recognise 'sex' as something separate from 'gender identity', whilst the Options Paper and its recommendations conflates these two concepts into one.

Are you able to clarify my understanding of the 'consistency' that the recommendations of the Options Paper hope to achieve and also whether I am correct in my reading of the paper that 'sex' is used synonymously with 'gender identity'.

**EOT (25/02/2016) Reply No.1:** Thank you for your e-mail regarding the Options Paper on Legal Recognition of Sex and Gender Diversity in Tasmania.

With regard to your query, changes to the *Anti-Discrimination Act 1998 (Tas)* which took effect on January 1 2014 clarify that alterations to a person's gender identity are not dependent on undergoing sexual reassignment surgery. In this way the difference between sex and gender identity are now more clearly articulated.

This is an approach that is evolving across many areas of public life, including for example in the statistical counting of the Australian Bureau of Statistics, which has recently introduced amended classification categories for both sex and gender. The following table (which can be found on the ABS website at Australian Bureau of Statistics, Standard for Sex and Gender Variables, 2016 (Cat. No. 1200.0.55.012 released 2 February 2016)) describes the category codes, labels and definitions of sex and gender. This approach is also reflected in the *Australian Government Guidelines on the Recognition of Sex and Gender* first released in 2013 and updates in November 2015.

AUSTRALIAN BUREAU OF STATISTICS SEX AND GENDER STANDARD CLASSIFICATIONS AND CODE STRUCTURES (February 2016) (table inserted in email)

As currently drafted the Tasmanian *Births, Deaths and Marriages Registration Act 1999* refers only to the ability to register a change of sex. These provisions have been used, however, to register a change of gender identity in circumstances where a person has undergone sexual re-assignment surgery. The aim of the options outlined in the Commissioner's paper are to bring these provisions into line with current approaches, including removing the need for sexual reassignment surgery as a prerequisite for a change of sex to be registered. There are broadly two reasons why this is unacceptable. The first being that surgical intervention should not be a pre-requisite for legal recognition of a change of gender identity for the reasons we have outlined, and, second, persons with intersex variations may have mixed or non-binary biological characteristics.

I appreciate that reference to change of sex (and the use of the term sex alone) may confuse these matters. It would, of course, be open to those drafting the amendments to the legislation to re-name section 28A to refer change of sex or gender to make this clear, however this is not something that we have addressed in the paper.

I hope that this helps to clarify matters.

**WOLF (25/02/2016) No. 2:** Can you direct me to the section of the Anti-Discrimination Act that, as you say, 'clarify that alterations to a persons gender identity are not dependent on sexual reassignment surgery' - is this in reference to the interpretation section that I cited, or is there something else in the Act?

**EOT (25/02/2016) Reply No.2:** The reference is in the interpretation section. Prior to the changes that came into effect on 1 January 2014, protections were available on the basis of 'sexual orientation' only with sexual orientation being defined to include 'transexuality'. As such, the concept of sexual orientation was confused with gender identity. The introduction of separate protections on the basis of gender identity allowed us to clarify matters and to make clear that a change in gender identity was not contingent on medical intervention.

**WOLF (25/02/2016) No. 3:** I have read over the Interpretation section and have found;

'gender identity means the gender-related identity, appearance or mannerisms or other gender-related characteristics of an individual (whether

by way of medical intervention or not), with or without regard to the individual's designated sex at birth, and includes transsexualism and transgenderism'

and

'transgender means a person who –

(a) does not identify, to whatever degree, with the gender identity assigned them at birth; and

(b) at times, or permanently, has a gender identity which might be perceived as atypical for his or her birth gender;'

From this, I gather that a 'change in gender identity', for purposes of the Anti-Discrimination Act, occurs as a completely subjective experience of the person in question. As in, a person's 'gender identity' is something that is a feeling they have and can be determined by no-one else, and can change from moment to moment. I assume that that is Equal Opportunity Tasmania's interpretation, as your report's recommendations are for a person to be able to self-identify their sex, on a Birth Certificate. This is all incredibly confusing, especially the reference to 'gender identity assigned them at birth', because as far as I understand, our Birth Certificates indicate a 'sex' identified, not an assumed 'identity' or feeling about ourselves - which is how 'gender identity' is defined (as above).

What I gather from all this, which goes to one of my first questions in my original email to you, is that in the Report 'sex' is used **synonymously** with 'gender identity'. Is this correct?

**EOT (25/02/2016) Reply No. 3:** I guess to be clear, the terms sex and gender have in many settings been confused over the years – in our Act, at the federal level and in relevant Acts such as those registering births deaths and marriages. For most of the population the gender we are assigned at birth matches their biological sex (ie, born with female sex characteristics and assigned the gender of being a girl/woman). For someone who is intersex, however, they may be assigned a gender or sex or rearing (eg, girl) which does not match their biological or sex characteristics. The changes that are proposed for the BDMR Act and those that are contained within our own Act are aimed at clarifying these issues, ie, the difference between sex and gender. It is not something that is treated flippantly. For example, it is not something that would be able to be changed daily or moment to moment as you suggest. There are legal consequences of changing the way in which a person's sex or gender is legally recognised.

**WOLF (25/02/2016) No. 4:** From what I see, the changes proposed would conflate sex and gender, not clarify any difference.

How do you see them as clarifying the difference? Does Equal Opportunity Tasmania recognise a difference? If so, what is it? I know what I think it is and am well aware of the confusing and conflicting ways in which these terms have been used, and still are being used today (including in government documents and legislation).

I am struggling to be able to respond to some of the recommendations of the report without this clarity, as without these definitions, I don't actually know what the Report is saying.

**EOT (25/02/2016) Reply No. 4:** I acknowledge that the meaning and use of the terms is contentious. Just as the terms male and female may refer both to a person's biological characteristics and their gender identity. As we know from the situation of those who are intersex the genital appearance at birth and indeed their chromosomal profile may not always be accurate determinants of an individual's sex. As I indicated previously, for the overwhelming majority of people these two will match, but that is not always the case. The ABS classification I provided earlier gives a good understanding of the differences. The way the law is currently structured denies or ignores the existence of non-binary sexual characteristics and does not enable a transgender person to have their authentic gender identity reflected in their legal identification documents unless they can provide proof of surgery. As our paper outlines, this is discriminatory and at odds with commitments by the Tasmanian Government and other jurisdictions to remove discrimination in this area.

**WOLF (25/02/2016) No. 5:** So, when you say 'authentic gender identity', you mean the 'sex' indicated on a birth certificate?

I will assume the answer is "Yes". Please correct me if I am wrong.

What I am querying then, is *how* is this consistent with the Anti-Discrimination Act (and the ABS guidelines), which actually differentiate the two concepts? Why is it seen as discriminatory for a person to have a sex marker that says 'male' on their birth certificate, but hold a 'gender identity' of 'female'? You seem to be saying that a person with a gender identity of 'female' despite having the 'chromosomal, gonadal and anatomical characteristics associated with biological sex characteristics' of a *male*, should be able to change their birth certificate to indicate a female sex, which is objectively NOT their 'sex' as defined on page 32 of Equal Opportunity Tasmania's Report.

Equal Opportunity Tasmania seems to be putting forward a proposal that is at odds with your own definitions contained in the Report.

**WOLF (02/03/2016):** As I have not received a response from you about my question ('How is this consistent with the Anti-Discrimination Act...?') I would like you to forward my query to Robin Banks and ask her to make contact with me so I may seek clarification.

**EOT (02/03/2016) Reply:** I have provided our correspondence, including your last request to the Commissioner.

The Commissioner has asked me to respond on her behalf. She is of the view that your concerns about clarity are concerns that you could usefully provide in your submission or comments in response to the Options paper. To the extent that you are concerned about terms being conflated or confused, it would be useful to have that raised, with details of where this arises in your submission/comments.

The Commissioner and I look forward to receiving your formal response.

**WOLF (2<sup>nd</sup> Representative) (06/03/2016):** I have been reading through the Equal Opportunity Tasmania Options Paper about the proposed reforms to the Births Deaths and Marriage Registration Act and it has raised some concerns. Specifically, I am curious about what impacts the proposed changes would have in relation to exemptions on the basis of sex to the Anti-Discrimination Act. As it currently stands, women are able to seek exemption from discrimination on the basis of sex in order to establish necessary women-only services such as shelters, and health and legal services. With men able to change the sex marker on their legal documents to 'female' without undergoing any kind of surgery or social transition, it concerns me that these services would no longer be effectively women-only, and therefore jeopardise women's ability to access these services.

Despite the provision for a veto to a change of legal sex marker on the basis of possible fraudulent activity, it is difficult for me to imagine how this would be evident prior to the fact. I am alarmed that the proposed changes have been submitted for comment without even a mention of how they could affect women and girls, who often rely on sex-segregated services and spaces to guarantee their safety, equal access and equal participation in society. If you could comment on how Equal Opportunity Tasmania sees these potentially conflicting interests being dealt with, I would be much obliged.

**EOT (07/03/2016):** Thank you for your e-mail about proposed reforms to the Births, Deaths and Marriages Registration Act. I note the issues you have raised and advise that we would be happy to receive a submission in response to the Options paper outlining your concerns.