

## **About Rainbow Families**

NSW Rainbow Families NSW was formed in 2015 as the peak body for LGBTIQ+ families in NSW. The acronym LGBTIQ+ refers to lesbian, gay, bisexual, transgender/ gender diverse, intersex variation, and queer. The + recognises that there are a range of other terms that Rainbow families identify with, and that these members of our community are loved and included.

The mission of Rainbow Families is to build a community that fosters resiliency by connecting, supporting and empowering LGBTIQ+ families. Rainbow Families has a growing membership and includes people from across NSW. Its volunteer Board consists of committed LGBTIQ+ members who share the common experience of raising families. Rainbow Families is in the final stages of registering as a charity under the *Australian Charities and Not-for Profits Commission Act 2012*. Rainbow Families is an incorporated organisation, governed by a constitution which provides a structure for how the group operates.

## **What is a Rainbow Family?**

A Rainbow Family is a same-sex or LGBTIQ+ parented family. At Rainbow Families, we define a Rainbow Family as: any lesbian, gay, bisexual, transgender/ gender diverse, intersex, or queer person who identifies with our community and has a child or children; or is planning on having a child or children by way of donor insemination (known or unknown), surrogacy (altruistic or commercial), foster care, foster to adoption, adoption (domestic or international), opposite sex relationship, co-parenting or other means. Rainbow families, like many modern families, come in all shapes and sizes and are formed in many different ways. But the thing we all have in common is that our families are created through love. Over thirty years of peer reviewed research into same-sex parented families shows that children from these families do as well as their peers from heterosexual-parented families.

## **For the community, by the community**

Rainbow Families is a volunteer-led organisation, providing a network of support to children and families within the NSW LGBTIQ+ community.

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## Introduction

Reforms in recent years have brought significant developments in the legal recognition of LGBTIQ+ families. This has included recognising same-sex de facto relationships, and more recently, same-sex marriage as well as expanding the definition of 'parent' to enable two lesbian women to be legal parents. However, there are still areas in which more needs to be done to reflect the experiences of LGBTIQ+ families and the diversity and complexity of family structures. The key role played by the Census in providing government, private sector and the general population with information about the composition of the Australian population means that it is vital that the LGBTIQ+ population is accurately represented in Census data. This requires that the Census survey is formulated in a way that is inclusive of the LGBTIQ+ community.

Our submission focuses on the following issues identified in the community arising from the 2016 Census process:

- Limitations of Census questions in reflecting LGBTIQ+ families and relationships
- Relationships and families not captured by the Census
- Additional opt in procedure for providing information about gender diversity
- Limitations on availability of accurate data for purposes of planning and service provision

## Rainbow Families Response

In our survey on Federal Government Services survey, we included the following question in relation to the 2016 Census:

*Did you have any difficulties completing the 2016 Census because you are LGBTIQ+ or have parents who are LGBTIQ+?*

A consistent theme in the responses was that the Census did not enable members of the community to accurately represent their relationship or family structure. Members of the LGBTIQ+ community are regularly faced with forms produced by government agencies and other organisations that are not inclusive of their family. The Australian passport application for a child with fields for 'mother' and 'father' has been a notable example of this. Having to fill out such forms reinforces the perception in the community that government and other services are predicated on heteronormative and cis-normative<sup>1</sup> model of relationships and families. Those who do not fit that model experience exclusion.

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<sup>1</sup> The assumption that all human beings are cisgender, i.e. have a gender identity which matches the sex they were assigned at birth.

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## Limitations of Census questions in reflecting LGBTIQ+ families and relationships

We acknowledge that the ABS is able to identify same-sex parented families through matching data provided in response to key questions even though this information is not specifically requested. Question 5 of the form asks each person's relationship to the person filling out the form (person 1) and establishes whether person 2 is in a relationship with person 1. This question also asks whether others are a 'child of person 1 and/or person 2'. Although this question enables rainbow families within a household to be counted, some people felt that the generic nature of the question deprived them of the opportunity to communicate clearly that they were a family of two mums or two dads. The following quotes indicate people's dissatisfaction in feeling that they were unable to provide accurate information about their relationship and family.

*'There was no room for two mums'.*

*'It is a heteronormative form with no room to document status realistically'.*

*'The Census form, like many government forms does not acknowledge and reflect the family that we are: two mums and two sons'.*

*'There are some sections where I cannot really reply about our family and structure'.*

*'I could not define my relationship status accurately'.*

The Census also continued to include questions which were explicitly based on the heterosexual parented family model. Questions 14 and 15 asked in turn 'In what Country was the person's [father] and [mother] born?' Accordingly, these questions could not be answered accurately in relation to person whose parents are not a man and a woman.

Faced with the situation of having to respond to questions that did not fit their family circumstances, many people employed self-help measures in an attempt to ensure that accurate information was recorded. Some people opted to use the paper form so that they could cross out and rewrite some of the fields that did not fit their family's experience. Crossing out 'father' and handwriting 'mother' or vice versa is often the only option for LGBTIQ+ families when completing forms produced by government and other organisations. Those completing the online form did not have this option and many would not have known to request a paper form. Where questions were limited in their scope, some people would have appreciated being able to provide additional information to clarify or provide more detail about their family so that accurate data could be captured.

*'The online forms did not have a section where we could write about our rainbow family. We had to request a paper copy and amend the form by hand.'*

*'We had to complete a paper form as the online form wasn't inclusive of our family'.*

*'We had to write our own option on the form regarding our marriage as two women given it was a legal international marriage.'*

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Whilst people have to an extent been able to overcome the limitations of the Census questions, reliance on individuals using ad hoc measures leads to inconsistency and undermines the veracity of the data collected. Requiring members of the LGBTIQ+ community to complete a form that does not respond to their family's experience entrenches the experience of marginalisation rather than promoting inclusiveness.

### **Relationships and families not captured by the Census**

The data obtained in the Census enables the ABS to calculate the number of same-sex relationships where members of a couple live within one the one household. As there are no questions that ask specifically about sexual orientation, same sex relationships between people who do not live in the same household are not captured. Further, the form does reflect a person's relationship it only does so in reference to the time of completing the Census form and therefore does not reflect people who identify as bisexual. We note that the ABS acknowledges some of these limitations<sup>2</sup> and we welcome measures to address them in the next Census.

The Census does not capture same-sex parented families where the parents live in separate households due to relationship breakdown or for some other reason. There are many single parents in the LGBTIQ+ community and the 2016 Census did not distinguish between same-sex parented and heterosexual parented single parent families. Further, the way in which families are formed within the LGBTIQ+ community means that many families transcend a single household. For example, some lesbian couples have a co-parenting arrangement with a known sperm donor who has taken on a parenting role. The Census in its current form has limited capacity to capture the variety of structures encompassed by LGBTIQ+ families. This has implications not just in terms of social inclusion but also in providing accurate data for use in planning of government and other services.

### **Additional opt in procedure for providing information about gender diversity**

We note that the 2016 Census was the first in which the ABS has collected data on sex and gender diversity<sup>3</sup>. People who are gender diverse or have children who identify as gender diverse were able to report their gender through opting to follow an additional procedure. Those wanting to provide a response other than 'male' or 'female' to question 3 on gender were prompted to contact the ABS enquiry line for further direction. They were then provided with an access code for a special online form. The alternative option provided was to use the paper form and write the appropriate answer next to the male/female boxes. We note that the ABS elected not to make this option generally available due to concern about how the public would respond, for example

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<sup>2</sup> Australian Bureau of Statistics, 2018, *Same Sex Couples in Australia 2016*, Cat. No. 2071.0  
<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2071.0~2016~Main%20Features~Same-Sex%20Couples~85>

<sup>3</sup> Australian Bureau of Statistics, 2018, *Sex and Gender Diversity in the 2016 Census*, Cat. No. 2071.0  
<http://abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2071.0~2016~Main%20Features~Sex%20and%20Gender%20Diversity%20in%20the%202016%20Census~100>

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providing a 'joke' response<sup>4</sup>. We note that the ABS is reviewing this procedure prior to the 2021 Census.

A number of members of the community reported that they utilised the additional procedure for recording gender. Being required to take additional steps in order to accurately report their gender created a perception among gender diverse members of the community that they were being treated differently to the rest of the population. Not being accommodated in the standard form led to feelings of exclusion.

*'We were unable to complete the online Census and had to apply for a special hard copy so that our family could be appropriately recognised. The Census form should be written in a way to accommodate diversity'.*

Having to call an enquiry centre for assistance undermines the anonymity of the process and places gender diverse people in the position of having to discuss sensitive personal information with a stranger. There is still limited understanding of issues of gender diversity in the general community and stigmatisation of people who identify as gender diverse. The perception that anonymity was being eroded was compounded by the ABS electing to retain identifying information for the first time. As a result, a significant number of people opted to omit names and/or addresses.

Some were reluctant to put their name to the online form, a requirement in the 2016 Census.

*'The way that you had to ask for a special code if you were trans, intersex, non-binary, disabled or needed a language form other than English really felt like a privacy risk. Why were we treated differently, worse than people who had the luck to be able to fill out the totally anonymous paper form'.*

The existence of this special procedure created a number of barriers for people identifying as gender diverse. Some people received conflicting information or requested a form which they did not receive. There was concern that some enquiry centre employees were not sufficiently aware of the additional procedure and not equipped to address enquiries in relation to it. Technical issues affecting the 2016 Census more generally would have prevented a number of people from getting through to the enquiry centre, with a number of people reporting that it was almost constantly busy.

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<sup>4</sup> Australian Bureau of Statistics, 2018, *Sex and Gender Diversity in the 2016 Census*, Cat. No. 2071.0  
<http://abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2071.0~2016~Main%20Features~Sex%20and%20Gender%20Diversity%20in%20the%202016%20Census~100>

ABC News, 4 August 2016, *Census 2016: LGBTQ+ people at risk of being undercounted in ABS survey, advocates say.*  
<http://www.abc.net.au/news/2016-08-04/census-2016-lgbtq-people-at-risk-being-uncounted-in-abs-survey/7687050>

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Others have reported that data they provided on gender diversity was not reflected in the published Census results.

*'I was unable to specify an accurate gender online so used paper based and wrote outside the box as per instructions. In my local area, I can see that this doesn't appear to be reflected in the results once they were published'.*

The combination of these factors has contributed to a lack of confidence in the accuracy of the data on gender diversity. It is likely that the number of people who identify as gender diverse exceeds the 1260 sex and/or gender diverse people counted in the 2016 Census.<sup>5</sup>

Some comments pointed to the limitation on information that was collected in relation to gender diversity. One person commented that there was no room to record birth gender and in doing so, register the fact of having had gender confirmation surgery. Another commented that it was difficult to register a two female relationship in which one them person was previously male.

Consideration also needs to be given to how the question on gender diversity interfaces with the rest of the survey questions.

Rainbow Families recommends that the ABS consult further with peak bodies for trans and gender diverse people, and people with intersex variations.

### **Limitations on availability of accurate data for purposes of planning and service provision**

There was a concern that if data obtained through the Census is not an accurate representation of the population, the government would not have information necessary for planning and resource allocation for government services.

*'How can the government provide appropriate services and make decisions in the best interests of the LGBTIQ community if they don't have the correct data as to how many people in our community'?*

*'I felt uncomfortable that the government tries to quote statistics about the LGBTIQ community but then doesn't collect accurate data to back it up. Our family structure was not represented in the census.'*

A lack of comprehensive publicly available data has made it difficult to estimate the whole LGBTIQ+ population<sup>6</sup>. Accurate data is necessary to inform decision making and allocation of

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<sup>5</sup> Australian Bureau of Statistics, 2018, *Sex and Gender Diversity in the 2016 Census*, Cat. No. 2071.0  
<http://abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2071.0~2016~Main%20Features~Sex%20and%20Gender%20Diversity%20in%20the%202016%20Census~100>

<sup>6</sup> Australian Human Rights Commission, 2018, *Face the Facts: Lesbian, Gay, Bisexual, Trans and Intersex People*  
<https://www.humanrights.gov.au/education/face-facts/face-facts-lesbian-gay-bisexual-trans-and-intersex-people>

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resources, for example in the areas of mental health and sexual health<sup>7</sup>. Media coverage at the time of the Census reported concerns about LGBTIQ+ people being at risk of being undercounted<sup>8</sup>.

## Recommendations

- Eliminate questions such as questions 14 and 15 that are predicated on heterosexual relationships to the exclusion of same sex parented families and ensure that questions are inclusive of gender diversity.
- Formulate questions which are more inclusive of LGBTIQ+ families by being able to capture relationships and families where members live in different households.
- Develop a less onerous process for collecting data on gender diversity which does not require special procedures in order to access the necessary form. Ideally, this data would be captured through one standard form. It may be necessary for the general public to be made aware of the reasons for inclusion of this data in the main form to maximise compliance.
- Consult key LGBTIQ organisations prior to implementing procedures for the collection of data on gender diversity in the 2021 Census.
- Where additional procedures are necessary, take steps to communicate to those affected.
- Rainbow Families recommends that the ABS consult further with peak bodies for trans and gender diverse people, and people with intersex variations.

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<sup>7</sup> National LGBTI Health Alliance, 2018, *White Paper: Making the count: Addressing the data integrity gap in Australian standards for collecting gender information*. <https://lgbtihealth.org.au/white-paper-addressing-data-integrity-gaps-in-the-abs-2016-standard-for-sex-and-gender-variables/>

<sup>8</sup> ABC News, 4 August 2016, *Census 2016: LGBTIQ+ people at risk of being undercounted in ABS survey, advocates say*. <http://www.abc.net.au/news/2016-08-04/census-2016-lgbti-people-at-risk-being-uncounted-in-abs-survey/7687050>

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