



Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Level 11, 257 Collins Street
Melbourne VIC 3000
PO Box 38
Flinders Lane VIC 8009
T: (03) 8662 3300
F: (03) 9663 6177
www.psychology.org.au

Email: legcon.sen@aph.gov.au

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To Whom It May Concern,

Senate Legal and Constitutional Affairs Committee Inquiry into the matter of a popular vote, in the form of a plebiscite or referendum, on the matter of marriage in Australia

The Australian Psychological Society (APS) welcomes the opportunity to respond to the Senate Legal and Constitutional Affairs Committee Inquiry into the matter of a popular vote, in the form of a plebiscite or referendum, on the matter of marriage in Australia. The matter of marriage is specifically about whether two people should be able to marry regardless of their gender.

The APS is the national professional organisation for psychologists with more than 22,000 members across Australia. Psychologists are experts in human behaviour and bring experience in understanding crucial components necessary to support people to optimise their function in the community.

A key goal of the APS is to actively contribute psychological knowledge for the promotion and enhancement of community wellbeing. Psychology in the Public Interest is the section of the APS dedicated to the communication and application of psychological knowledge to enhance community wellbeing and promote equitable and just treatment of all segments of society.

It is beyond the scope of the APS to comment on all of the Terms of Reference listed in this Inquiry. This submission will therefore focus on (d.) *whether such an activity is an appropriate method to address matters of equality and human rights*. As such, the APS response draws on the psychological evidence linking public votes about marriage equality to poor mental health, particularly the

harm to individuals' mental health that is known to be caused by fear campaigns and social exclusion.

While the APS fully supports marriage equality (see Appendix for relevant APS position statements and submissions), the APS believes that the process for achieving equality should not be by means of a popular vote. The reason for this position is twofold. Firstly, a public vote is likely to present significant risks to the psychological health and wellbeing of those most affected. Second, marriage equality is a human rights and equal opportunity issue and therefore on principle, should be a matter for Australian law and our parliamentary system, not a popular vote.

Recent evidence from a suite of studies confirms that the process of putting marriage equality to a public vote can be harmful to the psychological health of gender and sexual minorities. The findings highlight that lesbian, gay and bisexual people (LGB) not only have to contend with the possibility of having rights to marriage denied through a public vote but also the stress associated with the campaign itself.

In a study by Maisel and Fingerhut (2011), 358 LGB individuals reported their feelings 5 days before California's Proposition 8 public vote on civil marriage for same-sex couples. Importantly, this focused on the lead up to the vote, so the findings could not be influenced by the actual vote outcome. Results showed LGB participants experienced significantly higher levels of negative emotions (e.g., sadness, fear and anger) than positive emotions (e.g., happiness, joy) in response to the campaigns prior to the vote. This was particularly the case for LGB people in a relationship, and over half of participants reported entirely negative effects of the campaign in their open responses.

Rostosky, Riggle, Horne, Denton and Huellemeier (2010) examined LGB individuals' reactions to marriage amendment campaigns during the 2006 US election. A stratified random sample of 300 respondents was selected from a total of 1,486 LGB individuals involved in a national online survey conducted between 1 and 4 weeks after the election. While many participants reported feeling very upset over being denied the right to civil marriage, several reported feeling distressed over the negative rhetoric surrounding the ballot initiatives in the lead up to the election. For example, one participant wrote:

"The vitriol of the debate was vicious and mean-spirited to LGBTs, which did bother me quite a bit. You think when you are 54 and been out for 32

years that your skin would be leathery and able to deflect the bigoted arrows. But even for me a few stung sharply” (p. 305).

Findings showed that even those who reported having strong support systems were surprised at how the anti-LGB rhetoric affected them psychologically.

Another study concluded that the expression of inaccurate, negative, demeaning and hostile viewpoints about same-sex attracted people and their families, presented during anti-marriage campaigns in the lead up to a public vote banning same-sex marriage, was likely to have contributed directly to an increase in psychiatric morbidity among same-sex attracted individuals living in affected areas. In a 2-wave study, Hatzenbuehler, McLaughlin, Keyes and Hasin (2010) were able to control for natural variation in psychiatric illness incidence rates via comparisons between states where legislation was passed (following anti-marriage equality campaigns) versus those where no legislation was passed, and between same-sex attracted and heterosexual individuals (totalling 34,000 participants). The substantive increases in psychiatric incidences rates between time 1 and time 2 were only found amongst same-sex attracted individuals who resided in states where legislation banning same-sex marriage was passed (i.e., states in which anti-marriage campaigns were run), with findings showing:

- 36.6% increase in mood disorders
- 248.2% increase in generalised anxiety disorder
- 41.9% increase in alcohol use disorders
- a 36.3% increase in psychiatric comorbidity (i.e. more than one psychiatric disorder).

Evidence is not just limited to the United States. In Australia, an experimental study titled *The Psychology of Same-Sex Marriage Opposition: A Preliminary Findings Report* (Barlow, Dane, Techakesari, & Stork-Brett, 2012) examined the psychological impact of Australian media messages relating to same-sex marriage. Results based on a sample of 810 participants (age range 18-77; 514 same-sex attracted, 296 heterosexual) indicate that same-sex attracted participants who were randomly exposed to recent articles opposing (relative to supporting) same-sex marriage were statistically significantly:

- more likely to report feeling negative and depressed (e.g., they were more likely to agree that they felt distressed, upset, guilty, scared, afraid, ashamed and nervous)

- more likely to report that they felt lonely
- more likely to report that they felt weak and powerless
- less likely to report that they were feeling happy or positive.

While there is no current empirical evidence from Ireland to date (this will take some time to emerge), anecdotal evidence from Irish psychologists indicates that despite the eventual outcome in favour of marriage equality, the campaign had a distressing impact on particular citizen groups, notably older LGBTIQ people and single heterosexual parents subjected to arguments about the superiority of a traditional nuclear family structure.

“Despite a successful outcome, the process came at a cost and was incredibly hurtful for LGBT people... Facebook and elsewhere was full of stories of abuse - and the most difficult part, I think, for older people who came out when it was so difficult being gay or lesbian, was flashbacks to the old days of hiding and shame”.

The Irish campaign gave a platform for the expression of hatred and bigotry, with law requiring ‘both sides’ to be heard, and those supporting the campaign sharing personal stories and situations which left them vulnerable.

“LGBT people were asked to canvas door-to-door and on the streets face-to-face and ask people to vote Yes. However much pride we may have, however strong we may be, however much support we got, it hurt to see the negative reactions. They ranged from being spat at, threatened, name-called, called sinners, evil, spawn of the devil - you name it, it gave permission for hatred.”

Children and other family members (of LGBTI couples) are also affected by public displays of discrimination against same sex marriage and homophobia more generally. Homophobic discrimination towards offspring in same-sex parent families has been shown to harmfully impact on the mental health and wellbeing of young people (van Gelderen, et al 2015), while family members of LGBTI people felt equally attacked by anti-gay sentiments, movements and policies, experiencing secondary minority stress as similar to secondary trauma (Arm, et al, 2009). The level of distress and discomfort generated in children and young people in particular by the recent banning (and surrounding hostility and exclusion) of the film *Gayby Baby* in NSW schools is a further example of why caution is required with regard to a public vote. While it raises the profile and awareness of an important issue, this

needs to be balanced against the clear risk of individual mental health and wellbeing. Exclusion causes harm. While the wellbeing of children is sometimes raised in marriage equality debates, it is clearly not in children's best interests to cause them to feel that their families are not acceptable and inferior to others, and, hence, that they are not the same as other children themselves or somehow not safe.

The second argument against a popular vote is that marriage equality is a human rights issue - denying people the right to marry based on their gender or sexuality is discriminatory, and places them unfairly as second class citizens. Rather than being a matter for popular vote, the APS believes it should be a matter of principle and therefore the responsibility of government. The relatively recent changing of the Marriage Act in 2004 to specify that marriage is a union between a man and a woman was not voted on by the Australian people. Furthermore, it is inappropriate for minority rights to be decided by a majority vote, especially in situations where the majority (i.e., heterosexual community members) do not stand to lose anything should their existing rights and choices be extended to another group.

The preparation of this submission has been coordinated by the APS Public Interest team with input from other expert advisers.

Yours sincerely,

Ms Heather Gridley FAPS
Manager, Public Interest
Australian Psychological Society

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APPENDIX

APS activities relating to marriage equality and LGB/TI people

The following webpage documents the APS position on issues affecting the human rights, mental health and wellbeing of LGBTI people:

<http://www.psychology.org.au/Content.aspx?ID=5638>. This page outlines all the relevant work (position papers, articles, submissions, ethical guidelines, media releases etc.) undertaken by the APS in the area, particularly with regard to marriage equality and same-sex parenting.

The APS Gay and Lesbian Issues in Psychology Interest Group (GLIP) provides further information regarding lesbian and gay psychology in Australia at <http://www.groups.psychology.org.au/glip/>. GLIP is involved in advocacy work, in producing and supporting research in the field of lesbian and gay psychology, and in supporting practitioners in providing services to members of LGBTI communities.

APS Position on Marriage Equality

The APS support for marriage equality is based on the most current available evidence of the likely harm to the mental health and wellbeing of lesbian and gay Australians who are not free to marry the partner of their choice. Decades of psychological research provides the evidence linking marriage to mental health benefits, highlighting the harm to individuals' mental health of social exclusion.

Marriage equality is also a human rights issue. Psychologists regard people as intrinsically valuable and respect their rights, including the right to autonomy and justice. Psychologists engage in conduct that promotes equity and the protection of people's human rights, legal rights, and moral rights (APS, 2007). The APS continues to raise concerns and contribute to debates around human rights, including the rights of clients receiving psychological services, and of marginalised groups in society (such as LGB/TI-individuals and groups) (<http://www.psychology.org.au/community/public-interest/human-rights/>). Underpinning this contribution is the strong evidence linking human rights, material circumstances and psychological health.

Media Release (19 August 2015) - Psychologists call for marriage equality

Psychologists are committed via their Code of Ethics to the principle that all Australians should be supported to achieve positive mental health and full social inclusion. The APS therefore supports full marriage equality for all people, regardless of their sexual orientation or gender identity, on human rights, health and wellbeing grounds.

- [Read the media release](#)

APS Submissions

- [APS Submission to the Senate Legal and Constitutional Affairs Committee Inquiry into Recognition of Foreign Marriages Bill](#) (July 2014)
- [New South Wales Legislative Council Standing Committee on Social Issues Inquiry into Same Sex Marriage Law in NSW](#) (March 2013)
- [Senate Inquiry: Marriage Equality Amendment Bill 2010](#) (April 2012)