

19 August 2022

Section (9) (2) (a)

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Our ref: OIA 97833

Tēnā koe Section (9)

Official Information Act 1982 request: Information relating to people appearing in District Courts

Thank you for your email of 22 July 2022 to the Ministry of Justice (the Ministry) requesting information under the Official Information Act 1982 (the Act), about research or policies on gender diverse and/or sexually diverse people appearing in District Courts.

Please find the Ministry's response to each part of your request below.

- 1. Has the Ministry of Justice (or any contractors on behalf of the Ministry) conducted research into gender diverse and sexually diverse (LGBTIQ+, Takatāpui, queer) people appearing in criminal District Courts? If so, please provide me with the titles of those pieces of research, and the dates they were completed.*
- 2. Please provide me with all documents identified in relation to question 1.*

The Ministry has not conducted any research into the gender diversity of people appearing in criminal District Court. Therefore, these parts of your request are refused under section 18(e) of the Act as the information does not exist.

- 3. The number cases involving gender diverse defendants currently before the criminal District Court (or the most recently available data set) compared to the total number of cases (broken down by gender identity).*

The Case Management System used by the District Court registries does not record case information on gender diversity. This part of your request is therefore refused under section 18(e) of the Act as the information does not exist.

However, you may find useful statistical information for people charged and convicted, available at: justice.govt.nz/justice-sector-policy/research-data/justice-statistics/data-tables

- 4. All Ministry of Justice policies relating to gender diverse and sexually diverse (LGBTIQ+, Takatāpui, queer) people appearing in criminal District Courts.*

The Ministry does not have any policies that would be in scope of this part of your request. This part of your request is therefore refused under section 18(e) of the Act as the information does not exist.

5. *All policies relating to the implementation of Te Ao Mārama including any documentation relating to Te Ao Mārama and gender diverse and sexually diverse (LGBTIQ+, Takatāpui, queer) people appearing in criminal District Courts.*

For the District Court, Te Ao Mārama envisages a place where all people can come to court to seek justice, regardless of their culture or ethnicity, regardless of their means or abilities and regardless of who they are or where they are from. Te Ao Mārama is currently being established and a business case is being developed to access Government support provisioned through Budget 2022 programme funding. More information about the programme's vision can be found at: districtcourts.govt.nz/reports-publications-and-statistics/publications/norris-ward-mckinnon-annual-lecture-2020.

As there are no specific policies in place, this part of your request is refused under section 18(e) of the Act as the information does not exist.

6. *All training documents relating to court staff interacting with gender diverse and sexually diverse (LGBTIQ+, Takatāpui, queer) people.*

The Ministry does not hold any training documents that would be in scope of this part of your request. Therefore, it is refused under section 18(e) of the Act as the information does not exist.

However, an e-learning module *Including Rainbow Communities* is currently being developed for Ministry employees. This module will outline how Rainbow communities can be included in diverse and inclusive practices. It is planned to be launched to all kaimahi across the Ministry and Te Arawhiti this year.

We also have e-learning modules available that focus on addressing bias/unconscious bias, racism and discrimination. While those modules are not specific to Rainbow communities, they do include the experiences of Rainbow community members, particularly around:

- the correct use of pronouns with a description of each pronoun
- education and understanding around sexuality, gender and the correct use of terms across the LGBTQIA+ community.

In addition, the Ministry's Tātou Tātou Rainbow Network hosted Out @ PSA for their Gender and Sexual Diversity at Work training module in July 2021. While the training was not targeted specifically at court staff, some court staff did attend it. A resource is enclosed, which was given to the attendees of this event.

Should you have any concerns with this response, I would encourage you to raise these with the Ministry. Alternatively, you are advised of your right under section 28(3) of the Act to also raise any concerns with the Office of the Ombudsman. The Ombudsman may be contacted by email to: info@ombudsman.parliament.nz

Nāku noa, nā



Jenna Bottcher Hansen
Manager, Ministerial Relations and Services

LGBTIQ DEFINITIONS

Lesbian

Term used to describe women attracted romantically, erotically, and/or emotionally to other women. The term lesbian is derived from the name of the Greek Islands of Lesbos and as such is sometimes considered a Eurocentric category that does not necessarily represent the identities of Māori, Pacific Island, African and other Non-European ethnic groups. This being said, individual female-identified people from diverse ethnic groups, embrace the term 'lesbian' as an identity label.

Gay

1. Term used in some cultural settings to represent males who are attracted to males in a romantic, erotic and/or emotional sense. Not all men who in "homosexual behavior" identify as gay, and as such this label should be used with caution.
2. Term used to refer to the LGBTIQ community as a whole, or as an individual identity label for anyone who does not identify as heterosexual. Very rarely used nowadays.

Bisexual

Currently being redefined by bisexual rights activists to mean that one is attracted to both their own gender, as well as other genders, or to genders similar to one's own and different from one's own. This better reflects the common experience of many bisexual people (rather than simply attracted to binary men and binary women). In common use, most bisexual people identify as being attracted to men and women.

Some bisexual rights activists say this interpretation is '*biphobia*', based in stigma against bisexuals, and erasing bisexual attraction to non-binary people, however as it is bisexuals themselves who commonly identify as being attracted to men and women, this is an ongoing topic of debate.

Bisexuality is believed by some to be the most common sexual orientation, more common than heterosexuality. This is due to pervasive instances of people identifying as heterosexual at times but bisexual when safe to do so.

Transgender

A person whose gender differs from their sex assigned at birth. The sexual orientation of transgender people is not dependent on gender identity and is as diverse as non-transgender people.

Trans is used as an abbreviation of either transgender or transsexual, or as an umbrella in the same way that *transgender* is used

Trans man refers to a man who was assigned female at birth. He may or may not be identified by others as trans, and may or may not identify himself as trans. It is grammatically and definitionally correct to include a space between *trans* and *man*.

Trans woman refers to a woman who was assigned male at birth. She may or may not be identified by others as trans, and may or may not identify herself as trans. It is grammatically and definitionally correct to include a space between *trans* and *woman*.

Intersex

Describes a person whose sex characteristics (including chromosomes, genitals, gonads, hormones, and other reproductive anatomy) are more diverse than narrow medical definitions of male and female. A person may receive an intersex diagnosis at a range of times in their life, including before birth (pre-natal), at birth, at puberty, when trying to conceive, post-mortem, or by chance. When an intersex infant is born with atypical external genitalia, parents and medical professionals typically assign them a binary sex and may perform surgical or medical interventions to conform the infant's body to that assignment.

These practices amount to torture and are a grave violation of human rights. They are increasingly recognised as unethical and abusive as intersex adults are speaking out against medical procedures which they did not consent to. Being intersex does not imply anything regarding one's gender or sexual orientation.

Queer

Broadly used to indicate that one rejects heteronormativity and is not heterosexual – though sometimes queer is also used by heterosexual transgender people. Queer is inherently political; rejecting enforced heterosexual narratives, and rejecting assimilationist homonormative respectability politics that reinforce them. In more simple terms, queer rejects "we're just like you" as the reason LGBTI+ people should have rights.

The term "*Queer*" was originally a slur reclaimed by Black, trans, disabled, HIV+, and other more marginalised rainbow people (particularly people of colour) who could not and did not assimilate into mainstream white gay culture that heterosexuals found palatable.

'Queer' was a response to white gay, lesbian, and bisexual people who didn't respect them, and were happy to throw their rights under the bus to distance themselves from "*the radical queers*" as "*the respectable ones*" and "*normal*", or "*we're just like you*". Queer is sometimes used as an umbrella term to mean LGBTI+, though many queer people reject this. It is also sometimes used as an umbrella for '*not heterosexual and/or not cisgender*'. Because of the non-heterosexual connotation, many heterosexual trans people do not like to be called queer and may see this as being misgendered and called homosexual.

The word *queer* has long been used as a slur, so although it is commonly reclaimed, be a little cautious with its use.