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Sydney women-only ocean pool under fire over transgender policy

Social media users criticise the exclusion of some trans women at McIver's Ladies Baths, forcing a change of policy wording.

By Helen Sullivan

The Guardian (12.01.2021) - <https://bit.ly/38CGwMy> - A women-only ocean pool in Sydney's eastern suburbs has come under fire over a policy that excluded transgender women who had not had surgical intervention.

The McIver's Ladies Baths' policy on transgender women, published on the FAQ section of its website, has been changed twice since attention was drawn to it on Monday afternoon.

Under the question "Are transgender women allowed?" the website's response on Monday read: "Only transgender women who've undergone gender reassignment surgery are allowed entry. Please contact us for further information if required."

After social media users questioned the policy and called for swimmers to contact Randwick council, the Randwick & Coogee Ladies Swimming Association changed the website to read: "McIver's Ladies Baths has an exemption under the Anti-Discrimination Act awarded in 1995.

"Only women and children (boys up to 13 years of age) are permitted entry. If you wish to make any further inquiries please contact the Randwick city council."

The 1995 exemption, which allows the baths to be a women-only space, was made "indefinite" in 2018.

On Monday afternoon a post on the McIver's Facebook page quoted the 1995 exemption and called for people to direct "any information regarding transgender people needs" to Randwick council.

Below the post was a fierce debate of more than 3,000 comments from a mix of people who support allowing transgender women into the baths and those who do not. The Facebook post has since been taken down.

This is not the first time that women-only swimming spots have faced backlash over allowing or not allowing trans women to use their spaces. In 2019, London's Hampstead Heath ladies' pond formalised the rights of transgender women to use the pool after intense debate and protests by a radical feminist group.

On Tuesday morning, after staff at Randwick council requested that the website wording be changed again, the McIver's FAQ response was modified to say: "Yes. Transgender women are welcome to the McIver's Ladies Baths, our definition for transgender is as per the NSW Discrimination Act."

A spokesperson for Randwick council confirmed in an email to Guardian Australia that the council had requested the change "to reflect [the baths'] actual policy position more accurately."

A statement from the council on Tuesday afternoon said: "Randwick council is an inclusive organisation that values diversity in our community, and have always supported the inclusion of transgender women at McIver's Ladies Baths." The statement reiterated that the R&CLSA, which sub-leases the baths from the council, "are ultimately responsible for management and entry to the baths".

"It is our understanding the association has always had a policy of inclusion and we have been in contact with the management of the baths to ask them to more accurately communicate this inclusive position on the issue on their website," the statement said.

While the NSW anti-discrimination law defines trans women as all trans people who live or seek to live as women, the law recognises only some transgender people as legally being the gender they identify with, according to Newcastle University. There is a different definition under the law for "recognised" transgender people, who are required to have had "sex affirmation surgery". The Australian Human Rights Commission has criticised this system, and recommended that individuals be allowed to decide their own gender identities without needing surgery.

It is unclear from the latest FAQ response on the McIver's website whether the definition of trans women "as per the NSW discrimination act" refers to the specific definition of "recognised" trans women, or whether it refers to all trans women. In other words, all trans people who live or seek to live as women.

If it refers to "recognised" trans women, the current FAQ response would have the same meaning as the first response, allowing "only transgender women who've undergone gender reassignment surgery" to enter the baths.

Liam Elphick, a discrimination expert and associate lecturer in Monash University's law faculty, said that if the latest policy was referring to the latter definition, it offered "strong protection for trans women who identify as trans women," who should, under the law, need to demonstrate only that they live or intend to live as a woman – rather than needing to provide documentation – but that it was "far less strong" for those with non-binary gender identities.

"We have discrimination laws all throughout the country," he said, "and organisations should act not just in accordance with those laws, but as best as possible in the spirit of those laws. And those laws require that we do not discriminate in the provision of goods and services against transgender people."

Equality Australia's CEO, Anna Brown, told the Guardian: "All Australians should be treated equally and allowed to live with dignity as who they are. No woman, whether trans or not, should be forced to reveal any part of her body as a condition for accessing public facilities." She said the NSW law was out of date, and "should be updated to remove confusion and bring it into line with more contemporary anti-discrimination acts in other states and federally".

She also noted that the stigma faced by trans women often leads them to exclude themselves from health and fitness activities.

It is unclear how the policy will be enforced. Entry to the baths is permitted by a group of volunteers at busy times, and at other times swimmers throw a \$2.50 payment into a box before entering.

The Randwick & Coogee Ladies Swimming Association could not be reached for comment.

Australian state moves to scrap 'gay panic' defence

Defendants accused of murder in South Australia have been able to argue that they acted out of panic over a victim's sexual orientation or gender identity.

By Beh Lih Yi

Thomson Reuters Foundation (15.10.2020) - <https://bit.ly/37sQQ9y> - The only state in Australia where the so-called "gay panic" defence can be used in court moved on Thursday to scrap the provision, but LGBT+ rights campaigners said further reforms were needed to combat hate crime.

Defendants accused of murder in South Australia have been able to argue that they acted out of panic over a victim's sexual orientation or gender identity - potentially allowing charges to be downgraded to manslaughter in some cases.

LGBT+ rights groups have long called the provocation defence archaic and discriminatory, and a bill to revoke it was tabled by the state's attorney-general Vickie Chapman in the local parliament on Thursday, a spokesman for her office said.

Chapman, who did not make immediate comments, has said previously that the defence "is outdated, gender-biased, difficult to understand and, in certain cases, downright offensive".

Thursday's parliamentary session was adjourned until November, before the reform bill was discussed.

More than 25,000 people signed an online petition launched last week calling for the defence to be scrapped.

The argument has been rarely invoked. It has been used four times in the last decade, most recently in 2015, according to the South Australian Rainbow Advocacy Alliance, a campaign group.

"It's a fantastic step that it's finally introduced. I'm hoping it will pass quickly, it's long overdue," said Matthew Morris, the head of the group that jointly organised the petition.

"For a lot of community members it's the defence's existence in general that is a concern," he told the Thomson Reuters Foundation by phone from the state capital, Adelaide.

But Morris said the proposed reform was not enough to protect LGBT+ people, and urged courts to consider prejudice due to sexual orientation as a factor when sentencing in criminal cases.

Advocacy group Equality Australia said there was "no place" for the panic defence, and that revoking it would help end discrimination against LGBT+ Australians.

"Attacking someone because who they are offends you should increase your punishment, not reduce it," the group's chief executive, Anna Brown, said in a statement.

Neighbouring New Zealand banned the legal argument in 2009, and more U.S. states are taking steps to prohibit the defence after Washington state became the 10th to do so this year.

Homophobia drastically reduced at Australian clubs taking part in pride games

Researchers say a study's findings are 'unusual' as most prejudice reduction initiatives fail or have little impact.

By Mike Hytner

The Guardian (26.08.2020) - <https://bit.ly/3bilsKO> - The use of homophobic language is drastically reduced at sporting clubs which engage in pride games, new research has revealed, proving diversity-themed events can have a positive impact.

The research, led by Australia's Monash University, is the first academic study to investigate if such themed games or rounds, which aim to address a range of social issues including homophobia, racism and respect for women, can help stop discriminatory behaviours in male sport.

The study focused on the Australian Ice Hockey League and found players in teams that hold pride games use nearly 40% less homophobic language than those in teams that have not held games. A subsequent, larger study that included community cricket, netball, Australian rules football, field hockey, and roller derby reported nearly identical results.

"These findings are very unusual," Erik Denison, the lead author of the study, said. "Most prejudice reduction interventions fail or have little impact on attitudes and very few have been shown to change behaviours."

Slurs such as "fag" were found to be far less prevalent in the two semi-professional AIHL teams involved in pride initiatives than in the other six, after players self-reported for a period of two weeks.

"Holding pride games does not stop discriminatory behaviours but the games seem to mitigate the frequency of homophobic and sexist language used by players on teams that host the events," Denison said.

"We believe combining pride games with better communication about why language is harmful to LGBT people is key to stopping this behaviour." But Denison admitted the researchers were not sure why these games had not helped to change the behaviour of others exposed to the games, such as the visiting team.

Diversity-themed games have become commonplace across a range of sports throughout the world since the NHL's Florida Panthers pioneered the idea in 2013. Pride initiatives are now seen regularly in leagues across the globe, from the NBA and NFL in the US, to the AFL in Australia and the Premier League in the UK.

But a lack of research into – and conclusive evidence of – the effectiveness of such initiatives remains a barrier for some sports administrators, who may legitimately want to

do the right thing but do not want to be accused of “virtue signalling” or being “politically correct”.

The research, which was supported by the Australian government, Salesforce, You Can Play and Amnesty International, aimed to address that need for evidence and prove for the first time that diversity campaigns actually help to drive change to discriminatory behaviour and make sports more welcoming for LGBTI people.

Melbourne Mustangs ice hockey player Maxime Langelier-Parent, who took part in the study, said the use of homophobic language in his sport starts early, becomes habitual and is then passed on to the next generation of players.

“It is a vicious cycle,” Langelier-Parent said. “In hockey culture and other male sports there is also a strong pressure on players to conform to the team and those who don’t conform or deviate are often excluded. I think this is why it’s so hard to make these environments inclusive for LGBT people because being different isn’t seen to be positive.

“[Pride games] give us an opportunity to talk about the need to be inclusive and challenge the stereotypes around being a man.”

Another ice hockey player, Kade Matthews of the Southern Lights, said: “Most LGBT hockey players either ignore or just accept the language they hear being used, but it can cut deep and definitely sends the message that people don’t like gay people.

“As more people are willing to speak up against the language and how it affects them, there will be pressure to change the culture as a whole, resulting in better health outcomes for all players, including juniors.”

Previous research has found most discriminatory language in sport typically is not meant with malice or ill intent, but Denison underlined the importance of understanding exactly how a diversity-themed game can drive change to this kind of behaviour.

“For pride games, our working theory is that communications around the game, getting players to wear a special uniform, putting rainbows up everywhere in a stadium, making announcements, meeting LGBTQ+ athletes creates a ‘window of cognitive opportunity’ to short-circuit this normally thoughtless language,” he said.

“One of our study participants described this very clearly. In an interview, he told us he used a homophobic slur during a pride game and said it was like swearing in front of his grandmother. Being part of the pride game made him notice the language he was using without any thought. He said he tried hard to stop using this language after the game.”
