LEGITIMISING RAINBOW FAMILIES USING PARTNERSHIPS FOR CHANGE

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1.0 INTRODUCTION

Lesbian and gay parents and their children are becoming more visible in claiming their right to exist openly in Australian society. These families are also gathering increasing support from many sectors including law, health and education. This paper reflects the momentous shift for these families from being hidden, silent and marginalised to becoming beacons for the acceptance of diverse family types. This has been a relatively rapid social transition over the past decade or so, spurred on by international and local activism for same-sex relationship and family recognition.

We will argue that such a rapid social shift has left policy and legislation as anachronistic reminders of the past, and that these require urgent reform. Victoria provides an example of this disparity. It is one of the most highly regulated states regarding, for example, reproductive technologies and while its laws remain embedded in 1980s morality, its activists have been amongst the most vocal and effective in the country. The Fertility Access Rights (FAR) Lobby was formed in 1999 and consistently lobbied for reform of Victorian reproductive and adoption laws that discriminate against lesbians and single women. More recently it added gay men’s parenting issues and broader family law to its agenda. Several submissions have been made by

* The Rainbow Families Council developed and presented a professional Symposium in June 2007 at the Law School, University of Melbourne on which this paper is based. The keynote speakers at that Symposium were Professor Charlotte Patterson of the University of Virginia, USA; Associate Professor Kristen Walker and Mr. John Tobin of the Law School, University of Melbourne; and Dr Deborah Dempsey of the School of Social and Policy Studies at Swinburne University. They presented some of the ideas and concepts presented in this paper. The roundtable discussions and participants at the Symposium also made contributions. We would also like to acknowledge the many lesbian and gay parents we have met through our work and research and thank them for sharing their wisdom and entrusting their stories to us.

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FAR to relevant recent State and Federal inquiries. It was short listed for a human rights award by the Human Rights and Equal Opportunity Commission in 2006. In 2006 the lobbying work of FAR was incorporated into the newly established Rainbow Families Council.\(^1\)

In this paper we present the key issues and recommendations arising from an inaugural Symposium for professionals focusing on lesbian and gay parenting held in June 2007 in Melbourne, Australia. The Symposium was designed to tackle some of the barriers to legislative and policy change and find solutions. There are many ways to achieve change, but the Rainbow Families Council chose a collaborative model, bringing together lesbian and gay parents; activists; policy makers; professionals from legal, welfare, health and education; and researchers to work together toward change. Indeed, as organisers of this Symposium, we exemplified a collaborative approach, because many of us have multiple identities as lesbian parents, activists and professionals. Some of us also work in both our professional and personal lives to support rainbow families. While some may accuse us of bias, we unashamedly presented these identities as strengths. We are in a unique position to understand the professional challenges of working with and for rainbow families, as well as the personal costs of living under the current discriminatory policy and legislative regime. We feel that these strengths and broader partnerships have inspired new insights that we present below.

Terminology in this area is fraught. There are almost as many terms and phrases for lesbian and gay parented families as there are types of families themselves. In this paper, we have chosen to use the term ‘rainbow families’. It is an inclusive term that we believe embraces multiple and diverse family types, from lesbian couples aspiring to become parents, to gay fathers through surrogacy. It includes coupled and single parents, families with more than two parents and most importantly, it is accepted by children who are cared for by parents in same-sex relationships. We have chosen to include the concerns of gay men as well as lesbians in this paper. While lesbians and bisexual women form the majority of parents within rainbow families, gay men are increasingly involved, either with lesbian parented families, or in establishing their own families. We honour their commitment and struggles alongside our own.

2.0 **BACKGROUND**

There are many social and legal challenges for rainbow families in Australia. Socially, issues around the nation include negative attitudes and discrimination faced by rainbow families from mainstream society and also from other lesbians and gay men who do not have the same desire to parent. These negative attitudes can make lesbians and gay men cautious when seeking support and information from mainstream health, community, legal and welfare services. Finding donors or surrogates and negotiating the social meanings of biological relationships can be difficult, long and sometimes complex processes. Further, the lack of a legally recognised parenting relationship between non-birth parents and their children can be a great source of anxiety and uncertainty.

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\(^1\) Rainbow Families Council is a volunteer organisation working for and supporting rainbow families. This includes the Love Makes a Family lobbying campaign led by Felicity Marlowe. www.rainbowfamilies.org.au
These challenges also create problems for service providers. There may be little awareness among health-care providers and counsellors of the complexity of issues involved, and the lack of clarity in current legislation means that service providers may be concerned about the implications of assisting for fear of breaking the law, especially with regard to conception advice.

Legally, the issues vary considerably from State to State. All State and Territory Governments have legislated to recognise same-sex couples as domestic partners, although most often this reform has specifically excluded parenting laws. For example, the Victorian Labor Government amended the definition of de facto couple in 57 statutes in 2001. Despite the efforts of the then newly formed Fertility Access Rights Lobby over the preceding two years, any reform of parenting laws including fertility access and adoption was deliberately ruled out. This was a direct result of the highly contentious nature of these reforms amongst various constituents coupled with the marginal majority of the Labor party at that time. Since then, Western Australian, Tasmanian and the Australian Capital Territory governments have all legislated to allow a birth mother’s female partner to be automatically recognised and registered as the legal parent of a child born to her partner.

In Victoria, legislation regulating access to reproductive technologies, adoption and surrogacy excludes all people who are not in heterosexual relationships. The law discriminates against lesbians by preventing access to donor insemination at fertility clinics for women deemed to be ‘fertile’ who are single or in same-sex relationships. It does not recognise the non-biological parent within rainbow families and it excludes same-sex couples from adopting children. There is also a lack of clarity around the legal status of sperm and egg donors. These discriminatory laws have a serious negative impact on children, parents and extended families. Progress to reform these laws has been slow. A referral of these matters to the Law Reform Commission (VLRC) occurred in 2003, and the final report including recommendations was released just before our Symposium in June 2007. We will discuss this report in more detail later in the paper. The Government, in response to this report, has since committed to amend legislation relating to the majority of the VLRC recommendations apart from adoption.

At the Federal level the recently defeated conservative Coalition Government maintained a discriminatory stance for more than a decade, notoriously amending the Marriage Act to explicitly exclude same-sex couples in 2004. This also prevented the recognition of overseas same-sex marriages. The Coalition Government also legislated to prevent same-sex couples adopting children from overseas. Alastair Nicholson, QC and Former Chief Justice of the Family Court of Australia has stated: ‘Unlike most progressive and democratic Western countries, Australia, at a National level, has adopted a deliberately homophobic and in my view shameful, approach to same-sex relationships’. He further stated ‘it is not an overstatement to say that the refusal of

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5 Marriage Amendment Act 2004 (Cth)
recognition is an act of overt cruelty towards, and neglect of, the rights of children thus affected'. He rebukes this decision not least because it is in direct contradiction to international human rights agreements that Australia has signed. In particular, the International Covenant on Civil and Political Rights, which guarantees equality before the law and non-discrimination in articles 2(1) and 26, and the right not to be subjected to arbitrary or unlawful interference with one’s privacy and family in article 17(1).

International trends in this area show legislative reform in favour of same-sex couples and rainbow families. Marriage for same-sex couples is now legal in Belgium, Canada, The Netherlands, South Africa, Spain, and Massachusetts in the United States of America. Legislation has been enacted in many other countries to provide legal partnership status to same-sex couples, including Croatia, Denmark, Finland, France, Germany, Iceland, Israel, New Zealand, Norway, Portugal, Slovenia, Sweden, Switzerland, the Czech Republic, Rio Grande do Sul in Brazil and the United Kingdom; and is in process in Austria, Ireland and Hungary. Many of these countries include parenting recognition.

Two reports were released within weeks of each other during mid 2007 by the Victorian Law Reform Commission (VLRC) and the Human Rights and Equal Opportunity Commission (HREOC). They made comprehensive recommendations to reform Victorian and Federal laws respectively with regard to rainbow families and same-sex couples along the lines of international reforms. These reports were the result of extensive community consultation and research. We provide a very brief summary of the recommendations of each report as they largely encompass the reforms desired by rainbow families and provided an important backdrop to the Symposium. Their findings were supported by participants at the Symposium.

2.1 Victorian Law Reform Commission Report

This report came after four years of work and consultation, which included a genuine engagement with rainbow families, lobbyists and professionals (including ourselves), as well as the broader community. In summary, the recommendations were that single women (lesbian and heterosexual), single men (gay and heterosexual), and same-sex partners should have access to Assisted Reproductive Technology (ART), adoption, and altruistic surrogacy. Home-insemination should be de-criminalised, and men who altruistically donate sperm should be presumed for all purposes not to be the father of any child born as a result of the pregnancy. Opportunities should arise for gay men to parent via altruistic surrogacy, adoption, and possibly to have their names on birth certificates if they are to have a clearly defined parenting role. A birth mother’s female partner should be recognised as a parent of the child, and a new same-sex partner of a parent with an existing child should be able to adopt the child in accordance with the same criteria that now applies to opposite-sex partners. The presumption of parentage should be applied regardless of whether the children in question were born before or after the law is amended. Amendments should be made to the Births, Deaths and Marriages Registration Act 1996 to recognise that a child

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8 The Infertility Treatment Act 1995 (Vic) states that insemination of a woman outside of a registered treatment centre and/or by a non-registered person is illegal and carries a penalty of four years imprisonment.
may have two parents of the same sex; birth registration forms and birth certificates should give people the choice of terms ‘mother’, ‘father’ and ‘parent’; birth certificates could be amended retrospectively; and also could record commissioning parents, as in altruistic surrogacy, as the parents of the child.

The Rainbow Families Council has endorsed the recommendations for a number of reasons. First, the recommendations very closely follow the changes sought by the rainbow families community, which had been repeatedly declared during seven years of activism. Second, the overriding focus of the report is on the best interests of children. We believed this to be appropriate given the extensive research evidence, which shows that the outcomes for children in families with lesbian or gay parents are the same as those for children with heterosexual parents. Our children will be best served if law reform delivers equality and a more secure legal environment for them, from before conception through to adulthood. Third, beyond children’s rights, the guiding principles include a statement on non-discrimination on the basis of sexual orientation, marital status, race and religion, which brings the recommendations into line with the Federal Sex Discrimination Act (1984) and international human rights agreements. Finally, the report is comprehensive in its holistic approach to reform laws affecting the entire family life cycle from planning, through conception, adoption or fostering, to parenting.

2.2 Human Rights and Equal Opportunity Commission Report

The National Human Rights and Equal Opportunity Commission report ‘Same-Sex: Same Entitlements’ recommended amendment of 58 Federal laws that discriminate against same-sex couples and their children. It also recommended changes to State and Territory laws to recognise the relationships between children and both parents in the same-sex couple. Areas of suggested reform specifically relating to family relationships included entitlement of both parents to parental leave from employment; entitlement of same-sex partners to worker’s compensation and superannuation, which provides better financial security for the whole family; health care subsidies including the Medicare and PBS safety nets for families; and reform of the Family Law Act to recognise the parenting partner of a lesbian or gay parent as parent. This would enable same-sex couples to resolve both property and child-related disputes in the Family Court. This report again was the result of widespread consultation and took account of many of the concerns of rainbow families. The outgoing Federal Coalition Government declined to endorse the recommendations. The incoming Labor Government and Coalition opposition have suggested they will consider the recommendations, however both parties are yet to directly support access to reproductive technologies or adoption for same-sex couples.

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3.0 SYMPOSIUM

The Symposium was a multi-disciplinary forum that aimed to address important legal, social and health issues affecting lesbian and gay parents and their children. It was designed to include the many groups in our community that are interested in and work with rainbow families including health and social care practitioners, educators and teachers, policy makers, professionals from legal and welfare sectors, researchers and sociologists. Over 100 participants attended from Victoria, NSW, South Australia and Queensland. Organisations represented include the Family Court of Australia; the Equal Opportunity and Human Rights Commission of Victoria; the Victorian Infertility Treatment Authority; the Victorian Council of Social Services; various State and Federal Government departments; health, policy and legal departments across five Universities; women’s health agencies; a private IVF service and a foster agency. The Symposium created a rare opportunity for these groups to come together, hear about the current issues and engage in discussion. This enabled participants to better understand the complex issues regarding rainbow families currently under debate within policy, legal, health and social frameworks.

The event opened with a public lecture by Professor Charlotte Patterson, who is one of the leading international researchers on lesbian and gay parented families. She referred to a summary of the literature that she updated in 2005 for the American Psychological Association (APA), which presents an unequivocal picture of parents with good mental health and children developing well. The APA has produced a resolution on sexual orientation, parents and children (2004), which states that the children of lesbian and gay parents are as likely as those of heterosexual parents to flourish, and that lesbian and gay parents are as likely as heterosexual parents to provide supportive and healthy environments for their children. Professor Patterson summarised the central needs for these children as being the possibility of family life through allowing access to adoption and reproductive health services regardless of sexual orientation; respect and acknowledgment from their communities for the family ties that make life possible; protection under the law for their relationships with both parents; and support from all quarters for the family ties that sustain them.

Three keynote speakers from diverse backgrounds presented their expertise in the area. Associate Professor in Law Kristen Walker spoke on ‘How the law fails lesbian and gay parented families’; Dr Deborah Dempsey outlined sociological perspectives in ‘The inevitability of family change’; and Mr. John Tobin highlighted ‘Children’s rights’. Participants then attended two of six roundtable discussions to reflect on current social and legal issues under debate. These roundtables addressed gay men parenting, creating families, supporting separating families, hidden assumptions about what children really need, accessing health and community services, and negotiating family relationships between lesbians and gay men. Each roundtable was led by expert discussants and resulted in recommendations being presented back to the closing plenary. Proceedings of the Symposium with recommendations for action have been published by the

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168
Rainbow Families Council. We now present two of the central themes arising from the Symposium that we consider would advance the agenda for change: the need to carefully select who frames the debate, and the need for concurrent social education and legal change. Finally, we list the Symposium recommendations.

4.0 EMPOWERMENT THROUGH APPROPRIATE FRAMING OF THE DEBATE

John Tobin suggested that the dominant social narrative in Australia holds that children should live with their (biological) mother and father to ensure their effective social, gender and sexual development. Not only are lesbian and gay parenting arrangements deemed to be suboptimal, they are also considered to be harmful to children. These assumptions are linked to the rights and best interests of children and resist any attempt to recognise the legitimacy of existing rainbow families or to extend access to adoption and Assisted Reproductive Technologies (ART) to persons in same-sex relationships. He regarded this as a misappropriation of the children’s rights argument, underpinned by prejudices and phobias, and suggested that it is a clever strategy which shifts the onus onto gays and lesbians to defend their capacity as parents. Australian politicians have made comments suggesting that lesbian and gay parenting is a social experiment. For example, in 2004, then Acting Prime Minister John Anderson, publicly criticised an episode of the popular children’s program Play School. In the episode concerned, a young child was shown going to a playground with her two mums. Anderson was quoted as saying: ‘We know that from an incredibly early age children of both sexes look for mum for nurture and warmth and dad for stimulation and play’. The debate here then is framed by uninformed social conservatives, largely in secular positions of leadership and power who have control over law and policy.

A second common framework for the debate is led by religious leaders, in which a moral belief in the value of the nuclear family overrides all other forms of family. As Deb Dempsey explained this is based on the notion that there are ‘natural’ families and ‘unnatural’ families, and that these value-laden terms convey their relative merit. She argued that appeals to natural families reveal the continuing influence of Judeo-Christian views about God-given natural law. It is important to note that neither the secular advocates of the nuclear family, nor the religious natural family proponents are generally connected to or part of the rainbow families communities. They are pontificating and, in our view, are not providing relevant claims.

A third issue that commonly frames debate about the legitimacy of rainbow families is the importance placed on biology. This is the argument that children have a right to know their biological origins, and to be raised by their biological parents. The strength of opinion about children’s right to knowledge of their biological origins emphasises the value placed on biogenetic


12 Wroe David ‘PM Accuses Play School Over Gays’ The Age 7 June 2004 p5
notions of relatedness even by those more accepting of unconventional family configurations. We are not denying that this is an important consideration for some rainbow families in their decisions regarding the choice of known or anonymous sperm donor. Indeed, their belief in this concept often determines the selection of a known sperm donor and the subsequent building of a relationship with the sperm donor for the child’s sake. The willingness of some lesbians and men (often gay men) to negotiate these relationships is to be applauded, as this is not always an easy road, and can leave all parties vulnerable and displeased if dissonance arises between their original intentions and ongoing needs. Some children do prefer to know both of their biological parents and this cannot be predicted prior to conception. However, this is not a position central to how all families are created and the ‘need to know’ is more or less important to different individuals.

A more concerning outcome of the emphasis on biology was raised by Kristen Walker, who outlined the way that family law operates in a milieu in which biology overwhelms intention, to the disadvantage of rainbow families. She gave two examples. The first concerns adoption and assisted reproductive services, where intention to parent prevails over biology for heterosexual couples, as non-biological parents are placed on the child’s birth certificate and recognised as parents under the law. However, in relation to same-sex couples, a different approach is adopted in most Australian states. When a lesbian couple conceives a child with a sperm donor the law currently considers this family to be constituted by one mum and a dad, despite the intention of the mothers and the donor that the mothers are parents and the donor is simply a donor, and birth certificates in most states do not recognise the biological mother’s partner as a parent. Thus when the law deals with same-sex parents, it emphasises biology over intention, in contrast to its approach to heterosexual parents.

The second example is where parties are in dispute about relationships with children. There have been a few cases internationally where the non-biological mother in a previous lesbian relationship has been denied contact with her children. This has now occurred in a case heard in Australia in 2005 and confirmed on appeal in 2007, where the biological mother denied any lesbian relationship with the non-biological mother. Despite the women’s expressed intention at conception to parent jointly, the trial judge ruled that any earlier relationship was irrelevant, and therefore the parties intention was overruled by biology. The trial judge also ruled that the child should not have contact with the non-biological mother due to the stress it might cause the biological mother. The Full Court of the Family Court upheld the decision, yet it is difficult to imagine that a judge would deny a biological father contact with his child simply because it upset the biological mother. So we have two clear examples of rainbow families being subject to blatantly discriminatory legal practices as a result of having non-biological parents.

Two more pertinent, and in our view appropriate, frameworks from which to consider rainbow families were presented during the Symposium, these being the use of social research evidence, and the views and voices of rainbow families themselves. The lesbian and gay parenting research evidence has been overwhelmingly consistent and positive over the last 25 years, and even taken into account leave little doubt that rainbow families should be legally recognised. Further, Deb Dempsey pointed out that sociologists use social research evidence about lesbian

15 Venter & Vise [2007] FamCA 354 (22 March 2007)
and gay family-formation to conceptualise changing families as giving rise to ‘new imaginaries of responsibility’ about relationships and parenthood beyond the nuclear family. So rather than using the moral or normative arguments to suggest rainbow families are a threat to our society or to children, the evidence can reframe the picture to show these families as demonstrating new opportunities for living in caring and respectful relationships. Finally, the personal perspectives of parents and children in rainbow families have come into their own. Both the VLRC and HREOC consultations placed significant weight on their perspectives. It was also evident during the Symposium that professionals were often unaware of the specific challenges faced by rainbow families and that there is a need for targeted education about the reality of living in a lesbian or gay parented family.

5.0 ESSENTIAL PARTNERSHIPS IN SOCIAL EDUCATION AND LEGAL CHANGE

Throughout the Symposium those present were moved and stimulated by hearing rainbow families’ own stories. This occurred in the form of personal anecdotes by presenters in their role as lesbian or gay parents, stories told by other members of rainbow families, and experiences shared by professionals working with rainbow families. There was a palpable sense of inquiry from those professionals and policy makers who were not personally involved with rainbow families, who were clearly discovering the personal impacts of current legislation and policy. On one level, these interactions proved that the multi-disciplinary nature of the gathering was effective in achieving the goal of reaching a shared understanding. On another level, it was a microcosm of an effective method of partnership to achieve raised awareness, shifting attitudes and social change toward acceptance of rainbow families in the broader community.

Discussion during roundtable sessions turned to issues of professional development for service providers. For example, recent Australian research of lesbian family experiences of health care showed a perception that there is an almost universal lack of knowledge and skills amongst health care providers that would enable sensitive care. The majority have little exposure to and awareness of this population, which reflects the wider community ignorance. They lack awareness and knowledge of lesbian and gay community life and culture, the diversity across these families, and the health impacts of discrimination. Concern was raised that other professionals also lack this awareness including Family Court counsellors, relationship counsellors, lawyers and child care workers. Members of rainbow families are aware of these deficiencies and fearful that their needs may not be met particularly when they are at their most vulnerable, such as during family breakdown, illness or legal dispute. The need for specific training was endorsed by families and professionals alike.

A further issue is the relationship between social education and legislative change. It appears clear that one cannot occur successfully without the other. Here we will provide two examples, the first historical and the second projected. Same-sex relationship recognition has been formally adopted now by all State and Territory Governments in Australia. In Victoria, this occurred in 2001 with the passage of The Statute Law Amendment (Relationships) Act and the Statute Law Further Amendment (Relationships) Act. This legislation came about following extensive lobbying of the State Government by the gay, lesbian, bisexual, transgender and intersex (GLBTI) communities, and through more formal channels via the Attorney General’s Advisory Committee on Gay and Lesbian Issues. Passage of the legislation was accompanied by a grant to the Victorian Gay and Lesbian Rights Lobby to develop an on-line GLBTI community education package.\textsuperscript{15} This has been a frequently accessed resource, also available in hard copy from Victoria Legal Aid. It provides comprehensive explanations of how the legislation impacts on day-to-day life, including such issues as next of kin status in health care settings and rights in property disputes. This guide enables community members affected by the legislative changes to understand and advocate for their new entitlements. Unfortunately, the initiative was not accompanied by similar resources for professionals. So, even in 2007 we were regularly hearing stories of hospital and other encounters in which health care professionals were not up to date with legislation and same-sex partners were not automatically accepted as next of kin, which is their right.

Our second, projected, example assumes that the Victorian Government follows the Law Reform Commission recommendation to enact legislation granting legal parental status to non-birth parents in same-sex relationships. This is central to dealing with the vulnerability felt by many rainbow families under the law. We argue that such a reform must be accompanied by training for all relevant professionals. Legal parental status in the health care system is not useful without concomitant procedural changes and positive attitudes of staff. Otherwise a non-birth parent may still have to fight to be recognised as the child’s parent and/or be denied her right to make decisions on her child’s behalf. Similarly, legal parental status in the school system is relatively meaningless if homophobic bullying in the playground remains unchallenged by teachers or peers and is not addressed in school policy.

6.0 RECOMMENDATIONS

Each of the keynote speakers and the participants in the six roundtable discussions made suggestions for future directions to raise awareness about rainbow families in legal, health, political and social settings. The following recommendations from the Symposium provide the way forward.

6.1 Legal Issues and Family Law

The Symposium endorsed legislative change that would arise from adoption of the recommendations of the Victorian Law Reform Commission final report on ART and Adoption, and the Human Rights and Equal Opportunity Commission ‘Same-Sex: Same Entitlements’ report. In particular, non-birth parents within rainbow families should be legally recognised. Parenting intention should prevail over biology when determining parenting rights and responsibilities. Participants believed that children of lesbian and gay parents will benefit when the law recognises all of their relationships. Diversity of rainbow families should be recognised in law, particularly family forms that differ from the current heterosexual models. An example of such recognition would be the development of specific resources such as fact sheets about obtaining parenting orders for lesbian and gay parents and donors. Finally, the Symposium participants recommended that prospective donors and recipients should seek professional counselling and legal advice at the beginning of their negotiations in order to craft the best possible agreement for all concerned.

6.2 Health and the Law

Legislative change will create an opportunity for training of health and social care providers. In particular, the Victorian Charter of Human Rights and Responsibilities could be used to encourage public providers such as public hospitals to protect rainbow families from discrimination. The Charter specifically refers to children’s rights: ‘Every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child’. The Victorian Department of Human Services regularly produces ‘practice notes’ for public services such as child care, which could be used to disseminate information about new responsibilities under the Charter. There is also a role for advocacy by providers such as advising clients about the legal requirements of the service regarding the recognition of legal guardians.

6.3 Professional Development

Professional development sessions for family law practitioners and judges on the specific issues for rainbow families were recommended and a commitment was made to establish them. A ‘frequently asked questions’ section will also be developed on the Family Court website about key issues raised at the Symposium. Dialogue should be commenced between families, lawyers and policy makers, especially including the children’s perspectives, to ensure appropriate and comprehensive training. Health care professionals should be trained to develop cultural competence, which is an understanding of the distinct needs of rainbow families.

6.4 Social Dimensions and Awareness Raising

The general community should be informed of the consistent research findings over 25 years that children in lesbian and gay parented families are thriving. Ensuring that the children’s best interests are served involves encouraging the ‘right’ authority to frame the debate. This includes

16 Victorian Charter of Human Rights and Responsibilities Act 2006 (Vic) Section 17 (2).
the appropriate use of research findings and enabling the voices of the children themselves to be heard. Family is a living social construct that is constantly evolving and adapting to social changes. Lesbian and gay parenting is part of this change and while there may be some social and legal dilemmas to come to grips with as unconventional family forms proliferate, overall, they reflect new opportunities for living in caring and respectful relationships. In particular, gay men parent in multiple ways, including as foster parents, parents through surrogacy, parents from previous heterosexual relationships, and as donor dads. This diversity needs to be acknowledged and accommodated within the LGBTI communities. Class and structural disadvantage should be taken into account when considering the potential stresses for lesbian and gay parents.

7.0 CONCLUSION

A lesbian parent, who is also an activist and professional, made a comment during the closing session of the Symposium that she found it refreshing to see local research about rainbow families used by policy makers and activists alike to achieve change. This exemplified the purpose of the Symposium, and we claim that it also provides an effective model for further reforms. Indeed, much of the local research is being conducted by people who have been, or remain, activists for change. Blending activism and research has been criticised by academics and policy makers who ‘presume if one is interested in, engaged by, or drawn to policy, one’s scholarship is less trustworthy, tainted by advocacy, commitment, passion or responsibilities’ (page 197).17 Feminist researcher Michelle Fine goes on to argue that it is this very passion that can generate an effective translation of research into practice. In choosing to frame our debate in terms of the social research evidence and the perspectives of those most intimately involved in rainbow families, we argue that we have a powerful partnership. This partnership has had a pivotal influence in the two major inquiries into laws affecting rainbow families that we have outlined, and we trust that it will continue to be central as these recommendations are shaped into law.