

Dr J Harrison

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To: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Re: Inquiry into Same-Sex Relationships (Equal Treatment in Commonwealth Laws General Law Reform) Bill 2008

Dear Committee Secretary,

I would like to make a submission in support of the Same-Sex Relationships (Equal Treatment in Commonwealth Laws General Law Reform) Bill 2008.

I am particularly pleased to see the reforms to the area of aged care which are included in the Bill, and are aimed at ending longstanding discrimination experienced by same-sex couples when assessment for residential care placement is taking place.

I gave evidence to the HREOC inquiry, regarding matters of aged care and same-sex discrimination.

I would hope that education of consumers, service providers, administrators and others involved in the process of assessment, including ACAT staff and aged care providers, will be undertaken in conjunction with the enactment of the legislation.

I have concerns that the amendments to the Aged Care Act will not be fully understood by those impacted as consumers and / or providers and see education as being as important as the passage of the legislation itself.

I am also concerned that elderly same-sex couples who have not disclosed their relationship in any situation, but suddenly find themselves subject to continuing discrimination, ie treated as two singles sharing a house, will feel forced to reveal their relationship or face discrimination and potential loss of a family home.

This is a serious situation which requires training and education of all those involved and necessitates appropriate and sensitive advocacy related assistance for the elderly same-sex couples.

I have similar concerns in relation to elderly couples and areas such as Medicare and Social Security, or in the instance of the death of one member of the couple, where again a lifetime of non-disclosure may mean that rights are denied and education and assistance or advocacy support are not available.

Given this prospect, the Commonwealth should immediately undertake the development of an aged care advocacy and education program which is specifically focused on the impact of the legislation on elderly same-sex couples, and their special situation, so that the intent of the legislation includes this group of citizens in the most appropriate and safe way possible.

Further, it is imperative that all forms, guidelines, information manuals and other documentation in the area of aged care which currently render same-sex couples invisible be inclusive and allow for, but do not force disclosure of a relationship.

The process by which disclosure occurs is particularly sensitive in the area of aged care, and can involve some complexity where parent-child relationships and other family situations could mitigate disclosure, depending upon who is present at assessments and how a service provider conveys or reacts to information. The Commonwealth needs to give consideration to

these issues now so that the intent of the Bill is fulfilled and elderly couples are not forced to remain in or return to the closet.

I am particularly concerned that the lead-in time period for Social Security related changes is not sufficiently long to enable necessary arrangements and communication of implications to the gay and lesbian community and would strongly recommend that a longer time period allow for education programs of both consumers and providers, including in aged care, to take place prior to the enactment of these widely impacting new arrangements. This includes ensuring that elderly same-sex couples are not confused or rendered anxious regarding their status in relation to entitlement for pensions at single or couple levels of payment and have sufficient time to consider all the ramifications of disclosing their relationship when they may never have done so before.

A scenario where a same-sex elderly couple do not disclose their relationship (due to a history of persecution and fear of retribution) and continue to experience discrimination in years to come, but declare their relationship once they realise that the family home is under threat while experiencing the trauma of admission of one of the partners to a residential facility could raise implications in relation to a history of overpayment of social security benefits, despite them missing out on a range of other entitlements which the Bill seeks to afford them.

This is not an acceptable scenario and the government must take action to ensure that such a situation is avoided and the couple is fully informed of their rights and entitlements. Otherwise, the intent to extend a more equitable system to all same-sex couples will not have been successful. The situation of elderly same-sex couples requires special and sensitive treatment.

I strongly believe that there should also be an extensive public education campaign to ensure all lesbians and gay men are adequately prepared for the changes. This campaign should also ensure Commonwealth service providers and professionals who are administering the new laws are aware of the changes and do not discriminate against same-sex couples and their children.

This Bill is a welcome and overdue opportunity in Australia's history, particularly in the area of aged care, to correct a long standing injustice. I look forward to seeing these reforms passed through Parliament and associated education and advocacy related programs initiated as soon as possible.

Yours sincerely,  
Dr Jo Harrison