

PositiveLifeNSW

the voice of people with HIV since 1988

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Sir or Madam

Submission to the inquiry into the Same-Sex Relationships (equal Treatment in Commonwealth Laws – General Law Reform) Bill 2008

Positive Life NSW (Positive Life) is a non-profit community organisation representing the interests of people with HIV across NSW. Since 1988, we have provided health promotion, advocacy, peer support, health information resources and representation to ensure that people with HIV are able to access quality health care and participate in community life in ways that bring the best quality of life for them, their partners and families.

Positive Life NSW unequivocally supports the intent of Same-Sex Relationship (Equal Treatment in Commonwealth Laws – General Law Reform) Bill 2008 and the Same-Sex Relationships (Equal Treatment in Commonwealth Laws-Superannuation) Bill 2008. We believe that the benefits to gay men and lesbians of recognition of relationships, and the removal of financial and other penalties will be significant. There are clearly strong psychological and human rights benefits that flow from a changed awareness and clearer inclusion within Australian society. Hopefully, young gay men and lesbians will be some of the early beneficiaries of this and their mental health and suicide risks will improve.

We also strongly oppose moves to incorporate an interdependent type relationship, particularly family or carers, within the definitions proposed by this legislation. We fail to see the comparison, and believe that this move is not driven by any concern for the welfare of this population.

For older people, the impact may take longer to flow through. It will be balanced by more immediate concerns about changed income, and possible loss of eligibility for health care and other concessions due to partners' income. Our principle concern is to minimise the impact of any financial hardship experienced in the implementation of these changes. For older gay men in relationships who live with their partner, this will be activated by the application and impact of rules relating to cohabitation. For older

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couples, there may be limited opportunities to amend financial arrangements before retirement.

At the end of 2006, the total number of HIV infections diagnosed in Australia was estimated to be 20,580, 6,950 people had died and an estimated 13,630 people were living with HIV infection.¹ NSW Health surveillance data suggest there are approximately 9,000 people living with HIV in NSW². Homosexual men and men with a history of homosexual contact continue to comprise the majority (approximately 85%³) of those diagnosed with HIV in Australia⁴

Statistical data suggests slightly less than half (45.7%) are currently in a regular relationship⁵, with less than half (45.7%) nominating a benefit, pension or social security, as their primary source of income⁶. Using the quarterly Henderson Poverty Lines published by the Institute of Applied Economics and Social Research, (15.4%) on a dual income reported living below the poverty line.

The high cost of maintaining health and managing a chronic health condition, including access to bulk billing doctors, dental treatment and care, HIV and non-HIV prescribed medications and other therapies represent a significant cost burden. These expenses are subsidised for eligible recipients by the Health Care Card. Access to affordable specialist clinical care of other acute and chronic health conditions is also reliant upon Health Care Card eligibility. The loss of Health Care Card concessions and rebates could place a significant extra cost burden on couples, further reducing household income and independence and create additional financial strain. Futures Five data also confirms there is a clear relationship between poverty, health and wellbeing.⁷

The non-working partner on a pension may be placed in a more financially dependent situation within the relationship. Increases in household costs, a reduction in household income, particularly in relation to the loss of concessions and rebates, may place strain on the emotional wellbeing of the couple, change what may be longstanding dynamics and increase dependency within the relationship.

¹ Commonwealth Department of Health and Ageing

² HSW Health – Surveillance Data 2007

³ HIV Futures Five - ppXVI

⁴ National Centre in HIV Epidemiology and Clinical Research, HIV/AIDS, viral hepatitis and sexually transmissible infections in Australia Annual Surveillance Report 2007, National Centre in HIV Epidemiology and Clinical Research, University of New South Wales; Australian Institute of Health and Welfare Sydney, 2007.

⁵ HIV Futures Five – pp 45

⁶ HIV Futures Five – pp 61

⁷ HIV Futures Five – pp64

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Many state based services and community based services use a Health Care Card (and/or pension card) as a proxy income test for service eligibility. The services provided are accessed by many of these people with HIV and include complementary therapies, dental care, food and vitamin supplements, exercise facilities and subsidised food.

People living with HIV spend on average \$53.07 per week on medications and the pay an average rent/mortgage repayments equalling \$229 – (NSW being the most expensive rental market in Australia). Food and utilities account for around \$118 and \$68 respectively⁸. For those people living with HIV in rural and regional areas, additional costs are incurred in relation to the cost of vehicle maintenance, repairs and running costs.

This submission contends that there will be a number of gay men and lesbians in same sex relationships who will incur financial hardship. This is particularly true for people who rely on a Aged, Disability or Carers Pension and other concessional benefits such as the Health Care Concession Card.

Where both partners are living with HIV/AIDS and receiving a Disability Support pension, the payment will be adjusted from the rate paid to singles, to the rate paid for a couple, a reduction from \$999.40 per fortnight per couple to \$834.40 per fortnight, a loss of over \$160 per fortnight in couple income.

Where one partner is living with HIV/AIDS and receiving a Disability Support Pension and the other partner is working, eligibility for a number of pensions under the Social Security Act are subject to income and assets testing. The income and assets of the working partner may significantly impact on the eligibility and rate of pension and entitlements payable for the non-working partner.

We believe that the most disadvantaged couples living with HIV/AIDS on Centrelink Benefits such as the Disability Support Pension, low income earners, and those who rely on the Health Care concession Card, will bear an unequal proportion of the cost burden.

We hope that the disadvantage faced by some same sex couples living with HIV will be addressed. Positive Life NSW recommends that the Senate Inquiry give consideration to directing Government Departments responsible for the implementation and resulting policy implications of these changes to:

⁸ HIV Futures Five – pp62

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- Fund a social impact study to assess any financial hardship as a result of the changes and to inform sensitive policy development and implementation by Government departments.
- Delay to July 2010 the implementation of changes with negative financial impact to allow couples to better prepare their personal situation.
- Fund a communication strategy about the changes resulting from relationship recognition, including support to couples negatively impacted.
- Provide an amnesty period for people negatively impacted by the changes to allow them to report on their personal situation to Government departments (such as Centrelink) without fear of punitive actions and/or debt accrual.
- Ensure that any implementation of changes by government allows discretion to be applied where evidence of hardship can be established.

Thank You for the opportunity to comment

Yours sincerely



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