



**SUBMISSION ON THE ATTORNEY-GENERAL DEPARTMENT'S
CONSOLIDATION OF COMMONWEALTH ANTI-DISCRIMINATION LAWS - DISCUSSION PAPER**

1 February 2012

Assistant-Secretary
International Human Rights and Anti-Discrimination Branch
Attorney General's Department
Robert Garran Offices
3-5 National Circuit
BARTON ACT 2600

Via email: antidiscrimination@ag.gov.au

Dear Assistant-Secretary,

We thank you for the opportunity to contribute to the discussion on this very important area of law reform.

The Victorian Gay and Lesbian Rights Lobby (VGLRL) supports submissions made by the National LGBTI Health Alliance, the Discrimination Law Experts' Group, the Human Rights Law Centre and the Equality Rights Alliance.

The VGLRL's submission focuses on the following questions posed by the discussion paper:

Q 2. How should the burden of proving discrimination be allocated?

The VGLRL supports a model where the burden of proof shifts to the respondent once the complainant has made a prima facie case of discrimination. The VGLRL recognises that many people who encounter discrimination, including GLBTI people, belong to groups that are already marginalised and face barriers in various areas of life. For this reason, the VGLRL supports a model that supports complainants and may make it easier for them to successfully argue cases of unlawful discrimination.

Q 7. How should sexual orientation and gender identity be defined?

The VGLRL supports a broad and inclusive definition of sexual orientation, such as that contained in the Yogyakarta Principles, namely 'each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender'.

Q 22. How might religious exemptions apply in relation to discrimination on the grounds of sexual orientation and gender identity?

The VGLRL opposes any exemption granted to religious bodies that would permit discrimination on the basis of sexual orientation or gender identity. The VGLRL believes that religious

exemptions institutionalize and reinforce systemic discrimination against GLBTI people. Such exemptions fail to provide equality of treatment, equality of opportunity and respect for the diversity of all people, and directly contravene the Universal Declaration of Human Rights.

While the VGLRL is strongly opposed to any exemption granted to religious bodies on the basis of sexual orientation or gender identity, should the government decide to grant such an exemption, the VGLRL would favour an exemption that is framed narrowly. The VGLRL would oppose any exemption that permitted religious bodies to discriminate against people in employment matters; in the provision of public services using public funds; in the course of education, including primary schools, secondary schools and universities; in the provision of welfare and healthcare services including hospitals, healthcare clinics and aged care facilities; in the provision of commercial services such as accommodation; in commerce and in other similar areas.

Further, we believe that to have a blanket religious exemption on grounds of sexual orientation or gender identity contravenes the freedom of religious belief of those organisations which want to treat people equally i.e. do NOT want to discriminate. We believe should the government decide there needs to be such an exemption, there needs to be a simple process for such religious organisations to be public about their supportive position.

Regards,

Policy and Strategy Working Group

Victorian Gay and Lesbian Rights Lobby

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