

15 May 2013

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

**Melbourne Office**

350 Queen St  
Melbourne VIC 3000  
GPO Box 4380  
Melbourne VIC 3001  
DX 210646 Melbourne VIC  
t: 03 9269 0234  
1800 677 402  
www.legalaid.vic.gov.au  
ABN 42 335 622 126

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

Dear Sir/Madam

**Submission: *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013***

Victoria Legal Aid (VLA) welcomes this opportunity to comment on the *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013* (Bill).

In 2011-12, VLA provided legal advice and assistance in over 1270 discrimination matters and our Legal Help telephone information service responded to 3732 discrimination and employment related queries. In VLA's practice experience, discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI) people regularly occurs in a range of areas of public life including employment, accommodation and the provision of goods and services.

As a result of this discrimination, our LGBTI clients experience poor health, relationship stress, social exclusion and fears for their personal safety.

**1. Support for further protection against unlawful discrimination**

VLA supports the objects of the Bill to extend and strengthen protection from discrimination on the grounds of sexual orientation, gender identity and intersex status. VLA also supports the adoption in the Bill of international best practice in terms of the protection of transgender and intersex people, through the definitions of gender identity and intersex status proposed in clauses 6 and 8 of the Bill. The attributes of sexual orientation and gender identity are already protected under Victorian law (section 6 of the *Equal Opportunity Act 2010*). However the definition of gender identity proposed in the Bill (clause 6) will provide greater coverage for LGBTI people who experience discrimination on the basis of gender identity. We also note that the Bill extends protection against discrimination on the basis of intersex status (clause 7) and we endorse this extension.

## **2. Exemptions in the Bill should be amended**

VLA is concerned that the amendments proposed to the *Sex Discrimination Act 1984* (SDA) in the Bill preserve the operation of the existing exemptions; and specifically do not prevent aged care facilities from discriminating against potential clients on the basis of their sexual orientation, gender identity or because they are intersex. We note that the deferred exposure draft of the Human Rights and Anti-Discrimination Bill (HRAD Bill) amended the relevant exemption that enables church-based aged care providers to exclude LGBTI people from their services. We understand this was agreed via consultation with relevant stakeholders, and reflected the current policies of most church-based aged care providers. Older LGBTI Australians require support offered by aged care providers, and limiting access to these services on the basis of sexual orientation and gender identity will result in otherwise unlawful discrimination against the priority interest group that the Bill is supposed to protect. VLA therefore recommends that the current section 37 of the SDA be amended to ensure aged care providers cannot discriminate against clients on the basis of their sexual orientation, gender identity or intersex status.

VLA would be pleased to assist the Committee in relation to these issues.

Yours faithfully

**BEVAN WARNER**  
Managing Director