

9 January 2019

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
CANBERRA 2600

Only by email: legcon.sen@aph.gov.au

Dear Committee Secretary,

Sex Discrimination Amendment (Removing Discrimination against Students) Bill 2018

We thank you for the opportunity to make this submission to the inquiry into the *Sex Discrimination Amendment (Removing Discrimination against Students) Bill 2018 (Bill)*.

Caxton Legal Centre is Queensland's oldest community legal centre. Caxton Legal Centre's objects are to provide legal and social welfare services to low income and disadvantaged persons in need of relief from poverty, distress, misfortune, destitution and helplessness, and to educate such people in legal, social welfare and related matters.

We are an independent, non-profit community organisation providing free legal advice, representation, social work services, information and referrals.

We routinely provide advice and representation to complainants and respondents in matters that fall under the *Sex Discrimination Act 1981 (Act)*. In the 2017/18 financial year we provided 180 advice and representation services to clients concerning discrimination.

We support the proposed amendments to the Act.

Sex Discrimination Act

1. Section 21 of the Act provides:

(1) It is unlawful for an educational authority to discriminate against a person on the ground of a person's sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, or breastfeeding:

- a. *By refusing or failing to accept the person's application for admission as a student; or*
 - b. *In the terms or conditions on which it is prepared to admit the person as a student.*
- (2) *It is unlawful for an educational authority to discriminate against a student on the ground of the student's sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, or breastfeeding:*
 - a. *By denying the student access, or limiting the student's access to any benefit provided by the educational authority;*
 - b. *By expelling the student; or*
 - c. *By subjecting the student to any other detriment.*

Repeal of Section 38(3) of the Act.

- 2. Section 38(3) of the Act currently provides an exemption to the operation of section 21 of the Act. Section 38(3) states:

(3) Nothing in section 21 renders it unlawful for a person to discriminate against another person on the ground of the other person's sexual orientation, gender identity, marital or relationship status or pregnancy in connection with the provision of education or training by an educational institution that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed, if the first-mentioned person so discriminates in good faith in order to avoid injury to the religious susceptibilities of adherents of that religion or creed.

- 3. We support the repeal of the section 38(3) exemption to section 21 of the Act as the exemption causes disadvantage to and discrimination against students and staff who are lesbian, gay, bisexual, transgender or who are not married.

Amendment of Section 37 of the Act

- 4. Section 37(1)(d) of the Act provides:

(1) Nothing in Division 1 or 2 affects:

(d) any other act or practice of a body established for religious purposes, being an act or practice that conforms to the doctrines, tenets or beliefs of that religion or is necessary to avoid injury to the religious susceptibilities of adherents of that religion.

- 5. We support the amendment of section 37 of the Act to confirm that the exception in section 37(1)(b) should not apply in relation to the provision of education to students or in relation to the employment of teachers and other staff providing education.

Please do not hesitate to contact _____ if you have any
questions regarding this submission or if we can be of further assistance to the committee.

Yours faithfully,

Peter Lyons
Chief Executive Officer