

DEFGLIS SUBMISSION TO THE HOUSE OF SENATE LEGAL AND CONSTITUTIONAL COMMITTEE ON MARRIAGE EQUALITY BILLS

DEFGLIS, the network that supports and represents lesbian, gay, bisexual, transgender and intersex Australian Defence Force personnel and their families, is writing on behalf of its members regarding discrimination in Commonwealth marriage law.

This submission represents only the views of DEFGLIS. It does not purport to represent the official position of the Department of Defence.

Further information about DEFGLIS can be found at: <https://www.defglis.com>.

BACKGROUND

Defence family entitlements are granted to service members who have a recognised partner and/or dependents. Defence families, both opposite and same-sex, may seek recognition upon presenting:

- a. proof that they have met certain living and financial arrangement conditions, or
- b. a marriage certificate.

State or federal de facto recognition is not, in itself, sufficient proof to meet those conditions.

CURRENT SITUATION

A marriage certificate allows couples to bypass many burdens of proof that would otherwise be required to establish the existence of a relationship. It is not uncommon for Defence families, who are required to move frequently, to have difficulty satisfying these requirements for a variety of reasons.

There are circumstances where Defence families require access to immediate family recognition, including short-notice overseas postings and operational deployments.

Since same-sex Defence couples cannot present a marriage certificate as proof of their relationship, they suffer indirect systemic discrimination. As a result, same-sex Defence families must make difficult decisions, which cause financial prejudice and hardship.

Same-sex Defence families have been impacted in the following ways:

“My partner and I submitted our application for recognition of an interdependent relationship around the same time as another member within my unit, in an opposite-sex couple, submitted theirs. Due to service reasons, neither I nor the other member had had the opportunity to be co-located with our partners; therefore we could not satisfy the cohabitation requirement. While my partner and I were denied approval, the opposite-sex couple were approved pending the date of their upcoming marriage. I will be forced to take long service leave to meet the cohabitation requirement. As my partner and I are not recognised our relationship is not taken into consideration at posting time and we are forced to maintain a household in each of our posting localities, paying two lots of rent, two lots of utilities, purchasing two lots of furniture and household goods.”

“I halted my application to join Defence because I cannot prove my relationship status with my partner.”

“When I received a short-notice posting to the USA, my partner and I had been in a committed relationship for around three years, but were not recognised by Defence. An opposite-sex couple in a similar situation elected to wed to receive family benefits. Had we been permitted to marry, we would have done so to ensure that Defence looked after my partner during the overseas posting.”

“Despite serving in Army 15 years, being partnered for five years and living in the same house, we do not have enough criteria for recognition of our interdependent relationship.”

“I have had to leave loved ones behind when posted.”

“My partner and I have not been recognised because we were separated by my posting. In the future, I'll need to take a certain amount of leave without pay in order to meet the co-habitation requirements to bring out my partner from Europe. This will financially disadvantage me due to a requirement to establish residency that wouldn't be necessary if we could take out an intending spouse type visa.”

CONCLUSION

DEFGLIS supports equality in marriage law to ensure fair and equal opportunity for all Defence families.

DEFGLIS members and their families are available to testify if requested.

APPLICABLE DEFENCE POLICY

- Defence Instructions (General) Personnel 53-1 Amendment 1, dated 1 December 2005, available at: http://www.defence.gov.au/dpe/pac/GP53_01.pdf
- Defence Pay and Conditions Manual, available at: <http://www.defence.gov.au/dpe/pac/>