

30 April 2013

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

Via email: legcon.sen@aph.gov.au

Inquiry into the Sex Discrimination Amendment Bill 2013

COTA Australia welcomes the opportunity to provide comment on the Sex Discrimination (Sexual Orientation, Gender Identity and Intersex Status) Amendment Bill 2013.

COTA Australia (COTA) is the national organization of the eight State and Territory COTAs. Around Australia COTAs have a combined individual membership of around 40,000 older people as well as over 1,000 member organisations with a combined membership in excess of 500,000.

COTA is deeply disappointed at the Government's decision to discontinue in this parliament the consolidation of anti-discrimination legislation through the Human Rights and Anti-Discrimination Bill (HRAD). COTA views this as a breach of faith in regard to the Government's commitment to strengthen the Age Discrimination Act 2004, which is widely considered the weakest of all the anti-discrimination legislation.

COTA strongly urges the Government to expedite its review of this Committee's report into the HRAD bill and to reintroduce the improved HRAD bill before the Parliament rises at the end of June. This is clearly achievable if the Government has the political will to do so.

COTA strongly supports the introduction of federal anti-discrimination protections for lesbian, gay, bisexual, transgender and intersex (LGBTI) Australians. The introduction of "sexual orientation", "gender identity", "intersex status" and "marital or relationship status" provides a full suite of protections that is currently missing from federal legislation. COTA notes these provisions are consistent with the recently announced National LGBTI Ageing and Aged Care Strategy that is designed to ensure sexual and gender diversity does not act as a barrier for receiving high quality aged care.

Older LGBTI people have suffered a lifetime of social and legal discrimination. Many LGBTI people of senior age have lived for most of their life with homosexuality being illegal, with social norms ostracizing LGBTI people, and with physical and verbal abuse much more common occurrences compared with today. It is therefore appropriate that the Government introduces

these protections with a careful consideration of the proposed impact on older cohorts of LGBTI Australians.

COTA notes the Government's policy commitment to limiting existing religious exemption in the provision of Commonwealth funded Aged Care services. COTA's very strong preference is that the legislation does not allow religious organisations to be able to claim justification for discrimination against people because of sexual orientation, gender identity or intersex status.

COTA welcomes the Attorney-General's recommitment to this policy at his 20 March 2013 media conference and various statements of the Minister for Ageing the Hon Mark Butler reconfirming this position.

We know that many religious based service providers do not avail themselves of the current range of exemptions and would probably continue to do so. We draw the committee's attention to the fact that this policy is consistent with the policy position of the three largest faith-based aged care providers in Australia, namely:

Catholic Health Australia¹

Catholic hospitals and aged care services do not discriminate in who they employ, provide care to, or accommodate as residents within their facilities. People who identify as lesbian, gay, bisexual, transgender, or people of indeterminate gender will be cared for within Catholic hospitals and aged care services with respect, compassion, and sensitivity.

Anglicare Australia²

The Anglicare Australia network seeks to engage with ALL Australians to build communities of resilience, hope and justice. Our members provide services right across Australia, and do not discriminate on the basis of culture, religion, sexuality or gender.

UnitingCare Australia and UnitingCare Network on Ageing³

We deliver aged care services to people regardless of their age, gender, sexuality, ability, class, race, creed or cultural origin. Our position is informed by the Uniting Church's belief that every person is entitled to live with dignity, and we support efforts that further protect these rights.

Given the restated Government policy position to limit religious exemptions for Commonwealth funded aged care providers; the consistency of this policy position with major players in the aged care industry; and the broad support this provision received during recent consultations into the

¹ Brennan, F 2013 *'Clarifying the Anti-Discrimination muddle. Eureka Street'*, Sydney. Available from:

<http://www.eurekastreet.com.au/article.aspx?aeid=35014>

See also comments by Catholic Health Australia CEO Martin Laverty as reported by Australian Ageing Agenda from the Leading Aged Services Australia Tri-state conference February 2013 – see

<http://www.australianageingagenda.com.au/2013/02/26/article/Tri-State-highlights/NSHXAXEDIL>

² See - http://www.anglicare.asn.au/site/latest_news.php?task=detail&id=43

³ Media Release 20 November 2012 'UnitingCare Network recommits to eliminating discrimination', Canberra, see http://www.unitingcare.org.au/images/stories/media_releases/121120_mr_unitingcare_network_recommits_to_eliminating_discrimination.pdf

HRAD bill – we are concerned that this policy position has not been enacted in this legislation. We would urge the committee to amend the Bill to adopt a similar limitation as appeared in the HRAD bill across the entirety of Division 4 of the Sex Discrimination Act (Exemptions) and specifically s37 (Religious Exemptions).

In summary, COTA believes that in order for national anti-discrimination laws to be effective for older people the committee should recommend that:

- the Human Rights and Anti-Discrimination Bill be reintroduced before the Parliament rises in June 2012.
- the Bill be passed with all of its contained protected attributes.
- the reintroduction of a limitation on religious exemptions for Commonwealth funded aged care providers.

For further information regarding this submission please contact _____, National Policy Manager, on _____ or _____

Yours sincerely

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