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Older Persons Programs

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Submission in Support of the Australian Government's *"Human Rights and Anti-Discrimination Bill 2012"*

The UnitingCare Community's (UCC) Older Persons Programs (OPP) is funded by the Queensland Government to provide information, support and referral to older people in Queensland and also to promote the rights of older people to live free from abuse and discrimination. It is to this end that **the Older Persons Programs (OPP) strongly supports the protection of Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) people from discrimination on the basis of "Sexual Orientation", "Gender Identity" and "Intersex" status at a national level.** UCC's values of Respect, Compassion and Justice orientate all aspects of our work with older people some of whom are the most vulnerable in our society including many older LGBTI people. It is important that LGBTI people are afforded the same Human Rights and freedom from discrimination available to all Australians and that these rights are duly protected by federal law.

1. Support for the definition of "Sexual Orientation" and "Relationship Status"

In its 2011 consultation report "Addressing Sex and/or Gender Identity Discrimination" the Australian Human Rights Commission (AHRC) cites the ongoing existence of discrimination of LGBTI people in many aspects of life and identifies that discrimination, vilification, bullying and harassment have significant consequences for the mental health and wellbeing of this group of people. "Protection from vilification and harassment on the basis of sexual orientation and/or gender identity must be included in federal law" (AHRC 2011).

The American Psychological Association (APA) (2013) states that decades of research indicate that most people experience little or no sense of choice about their sexual orientation and that labels such as lesbian, gay and bisexual orientations reinforces notions of mental illness and stigmatises and discriminates individuals in these groups. The proposed definition of sexual orientation provides for inclusivity and protects against such discrimination. In a similar sense the term "relationship status" as opposed to "marital status" protects against relationship discrimination extended to same-sex couples.

2. Recommendation for the inclusion of “Intersex” as a protected attribute under the “Gender Identity” definition.

While intersex people are partially protected in the draft bill intersex people need explicit protection in human rights and anti-discrimination legislation. This can only be achieved by the explicit recognition of intersex as a biological state. “Intersex is a term which relates to a range of natural biological traits or variations that lie between “male” and “female”. There are an “infinite combination of possibilities on the spectrum of sex and gender” and thus “intersex” can never be an arbitrary third category in addition to “male” and “female” (Organisation Intersex International Australia [OII] 2012). As OII (2012) indicates humanity includes a wealth of biological and cultural diversity that is integral to any human rights agenda. To acknowledge this in the “gender identity” definition would ensure greater protection for intersex people from discrimination, promoting their basic human rights.

3. Improvement of the proposed “Gender Identity” definition to include Gender Expression/Presentation.

The OPP supports the 2012 Tasmanian definition of “Gender Identity” which is inclusive of gender expression/presentation. The APA (2013) defines “Gender identity” as “personal conception of oneself as male or female, both or sometimes neither” and includes gender related characteristics such as “behavior, dress, and/or mannerisms” as an important component of defining one’s gender identity (APA 2013). The definition of “Gender Identity” should not only include those that are considered mainstream but should take into account binary and non-binary gender identities, including culturally-specific genders. The inclusion of gender expression/presentation in the definition would afford protection against discrimination for all individuals.

4. Support for the prohibition of discrimination against LGBTI people receiving aged care services including those provided by religious aged care services.

The OPP strongly supports the prohibition of discrimination against LGBTI people receiving aged care services including those provided by federal funding and administered by religious aged care services. The Australian Bureau of Statistics (ABS) “Survey of Mental Health and Wellbeing” 2007 indicated that 12% of Lesbian, Gay and Bisexual people have no family members they can rely on compared with 6% of heterosexuals. In addition a survey by the Queensland Association for Healthy Communities (QAHC) (2012) indicated that 65% of LGBT people were concerned that their sexuality or gender identity would negatively affect the quality of their aged care services. Lack of family support and lifelong discrimination and stigma mean that LGBTI people are particularly vulnerable in older age and that federal law and enforcement of such must ensure non-discriminatory access to and delivery of appropriate aged care services. Society expects the delivery of culturally appropriate aged care services to older Australians and should expect nothing less than appropriately responsive aged care services to older LGBTI Australians. Religious groups should be no exception to the delivery of non-discriminatory aged care services in the community.

On behalf of the UnitingCare Community Older Persons Programs we ask that the above recommendations are taken into consideration in the review of the *Human Rights and Anti-Discrimination Bill 2012* by the Standing Committee on Legal and Constitutional Affairs. The protection of LGBTI people from discrimination is a basic human right that must be protected by federal law in Australia.

Yours faithfully

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