

# Northern Rivers Community Legal Centre

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**Dear Committee Secretary,**

## **RE: Inquiry into Same-Sex Relationships (Equal Treatment in Commonwealth Laws – General Law Reform) Bill 2008**

On behalf of the Northern Rivers Community Legal Centre, (NRCLC) I would like to make a submission in support of the Same-Sex Relationships (Equal Treatment in Commonwealth Laws – General Law Reform) Bill 2008.

Our Centre has been a strong proponent of equal rights for same sex families since our establishment in 1996, as initial community consultations indicated that sexuality discrimination was a significant issue for many gays and lesbians living in our rural villages and towns. Our region (Lismore, Byron Bay and surrounding Local Government Areas) has the highest concentration of same sex families outside of the Sydney metropolitan area. It is for these reasons that we identify lesbians and gays as a specific target client group.

Over the last 12 years, our Centre has provided advice and legal assistance to same sex families. Our assistance was limited by the lack of legal recognition of same sex families, and many couples were distressed by their “legal invisibility”, despite having lived as a family, choosing to become parents together and sharing parenting responsibilities. Accordingly, the NRCLC fully supports the inclusion of same-sex couples and families in various “de facto”, “family” and “child” definitions in federal law, as a long overdue reform of family law.

In August 2008, we held a Lesbian and Gay community forum (in partnership with the Northern Rivers ACON and Inner City Legal Centre's Gay and Lesbian Legal Service) to discuss the foreshadowed bill. More than fifty members of the community attended the session and there was strong support for the proposed changes.

The forum participants endorsed the Bill's intention to ensure that same-sex couples and their children are afforded equality in practical entitlements that most Australians take for granted. Participants were strongly of the view that these changes would have significant positive effects on their family lives and well-being.

At the forum, our solicitor also outlined the likely changes to social security, including the new responsibility for same sex couples to identify their relationship when seeking pensions and benefits. While community members understood that this was in parity with heterosexual couples, they raised a number of concerns.

### **The need to Grandfather the Centrelink changes**

The first concern was that there is a very limited period of time for couples prepare for their changed financial circumstances. This was seen as particularly problematic for couples reaching retirement age in the next few years. This is the generation that felt the full force of homophobic prejudice and lawful discrimination. Often members of this generation were precluded from achieving financial security, as many professions were closed to them and they risked dismissal from most jobs if their sexuality became known. Due to social pressures, many gays and lesbians were unable to form long-term relationships, thus reducing their financial capacity and resilience.

One lesbian couple spoke with our staff after the forum and explained their situation. Liz had worked for thirty years in an alternative community school on low pay, but felt secure in the knowledge that she did not need to hide her sexuality. As a pioneer in the gay liberation movement, she risked being sacked by mainstream education institutions. She is two years from retirement, but has limited savings and superannuation. She is recovering from cancer and had hoped to scale down to part-time work over the next two years.

Lynne, (Liz's partner of two years) "came out" to her conservative religious employer after leaving her minister husband. She was lawfully dismissed because of the religious exemption to the anti-discrimination laws. She received little money from her property settlement because the church owned their home and car; assets still enjoyed by her ex-husband. Lynne was shunned by her family and publicly criticised in her church congregation. She has ongoing mental health issues as a result. She has only been able to obtain casual work due to the nature of her illness, and relies on the disability pension.

This couple's financial stresses have been exacerbated by historic and contemporary lawful discrimination and continuing socially acceptable homophobia. As a result of the proposed Centrelink changes, Liz will be deferring her retirement as she cannot afford her small mortgage on a couples' rate of pension, something she had not anticipated.

Another Forum participant, John, told me that he was not prepared to name his same sex partner as his superannuation "next of kin" beneficiary because he was afraid "word would get out", risking (lawful) dismissal from the local Catholic school where he taught.

Jenny approached me at the close of the forum wanting me to hear her story. She had left her violent, alcoholic husband in the late 1970's to move in with her current partner, Mona. She had three children from her marriage and Mona helped Jenny (who went back to part-time nursing) to support the family. Jenny was so afraid of losing custody of the children (being a lesbian was then seen as being an unfit mother) that she did not press her ex-husband for child support or a property settlement. Mona was not able to claim Jenny or the children for tax, Medicare safety net or other benefits. Jenny felt that she was born at the wrong time, experiencing the social and economic negatives of being in a same sex couple for the last thirty years, and now that they were retired, they were looking at having their income reduced without any time to prepare.

Subsequent to the forum, the Centre was contacted by several "closeted" Centrelink payment recipients who had heard on the community grapevine about the forthcoming changes and were worried that they would be forced to "out" themselves. Robert expressed concern that by having to declare his same sex relationship to Centrelink, he would be forced to "out" himself in a small, conservative rural community. Robert was receiving a carer's payment for the care of his elderly father who was unaware of Robert's same sex relationship with his "house mate", Chris.

As can be seen by these case studies, making the social security laws equal for gays and heterosexuals does not make for equitable policy. Our Centre strongly advocates for a "grandfathering" period of five years for the Centrelink changes to be mandatory, allowing couples to organise and prepare for the financial and social consequences of same sex relationship recognition.

### **The need for an extensive public education campaign**

The Forum also identified the need for an extensive public education campaign to ensure all lesbians and gay men are adequately prepared for the changes. Many participants felt that there was very little awareness in their communities and many people were at risk of inadvertently breaching the new Centrelink provisions, as well as being unaware of other rights and responsibilities conferred by the bill.

Any education campaign should also ensure Commonwealth service providers and professionals who are administering the new laws are aware of the changes and do not discriminate against same-sex couples and their children.

Despite the above concerns, we believe this Bill is a welcome and overdue opportunity in Australia's history to correct a long standing injustice. We look forward to seeing these reforms passed through Parliament as soon as possible.

Yours sincerely,

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