

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 1.3**

**Question No. 82**

**Senator Hanson-Young asked the following question at the hearing on 23 February 2009:**

Due to the increasing concern voiced by many elderly couples in the same-sex community in relation to the effect the changes will have on them, has the Government, or did the Government consider a grandfathering clause for this group of individuals? If not, why not?

**The answer to the honourable senator's question is as follows:**

Yes. The Government decided not to introduce a grandfathering clause because equity in treatment of all people under the law was the foundation of these reforms. Grandfathering of benefits would require the continuation of differential treatment on the basis of sexuality in Commonwealth legislation which would undermine the purpose of the Government's reforms.

Grandfathering would also result in differential treatment between same-sex couples in similar circumstances, depending on whether or not they meet a 'grandfathering' clause. As a consequence, some same-sex couples would be assessed as a couple while other same-sex couples would be assessed as single resulting in different rates of payment.

Relevant agencies are continuing to consult with the same-sex community and welfare representatives to ensure that the concerns of affected community members are carefully considered in the implementation stage.