

22 July 2016

The Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
BRISBANE QLD 4000

**Email [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)**

Dear Director

**Submission on the *Health and Other Legislation Amendment Bill 2016 (Qld)***

Thank you for the opportunity to provide a submission on the *Health and Other Legislation Amendment Bill 2016 (Qld)* (**Bill**).

We fully support the Bill's amendment of *The Criminal Code Act 1899 (Qld)* (**Criminal Code**) to standardise the age of consent for sexual intercourse.

We have reviewed the proposed amendments to the legislation listed in Schedule 1 of the Bill. We agree that the proposed amendments appropriately omit or amend all references to section 208 of the Criminal Code, which has the consequential effect of abolishing unequal age of consent laws in Queensland. As such, we support the proposed drafting.

We also consider that all necessary amendments to associated legislation have been appropriately identified and addressed in the Bill.

The LGBTI Legal Service continues to believe that the unequal age of consent laws in Queensland discriminate against young gay men, and endangers them physically, emotionally and legally. Further, we consider that the evidence that section 208 is not being prosecuted is a strong indication that its removal from the Criminal Code is appropriate and that any opposition to the proposed amendments cannot be grounded in any reasonable policy grounds. Retention of unequal age of consent laws achieves no positive practical policy outcomes, and will only continue to unfairly treat the legitimate, consensual relationships between young gay men as different than those of their heterosexual peers. The retention of the law, in the absence of any real need, leaves it open to arbitrary and unexpected use. This has a material detrimental impact on young homosexual males, including physical, emotional and legal endangerment. The Queensland Parliament's proposed abolition of this unequal law represents significant progress towards equal legal treatment of young gay men - and all members of the LGBTI community - in Queensland.

We appreciate the Parliament's acknowledgement that language within legislation plays an important role in defining social values and community acceptance of LGBTI people. As previously raised by the LGBTI





Legal Service, the word 'sodomy' has overtones of moral condemnation and carries negative connotations. As such, we strongly support the Parliament's proposed amendments to remove all references to 'sodomy' in Queensland's law, and agree that any necessary references to anal intercourse should be made using more appropriate and specific language. As such, the LGBTI Legal Service fully supports the proposed replacement of the word 'sodomy' with 'anal intercourse' within the legislation.

We specifically note that the recent increase in HIV infection among Queenslanders emphasises the need to disseminate safe-sex education amongst young people, regardless of their sexuality. However, this activity is inhibited by the retention of the unequal age of consent laws. Anecdotal evidence suggests this is because teachers and other professionals working with individuals under the age of 18 are confused or uncertain as to their legal position in providing young people with information and support regarding unlawful sexual activity. Accordingly, they may be reluctant to do so. Unequal age of consent laws result in young sexually-active homosexual males feeling reluctant to seek support, guidance or education from teachers or other professionals. We strongly support the Parliament's action to rectify these policy outcomes and create a safer environment for young gay men in Queensland to seek sexual health advice and education.

We note that many Laws continue to exist that marginalise or discriminate against same-sex couples, most notably the lack of Federal recognition of marriage between same-sex couples. It is important that law-makers continue to identify areas of the law which require amendment, in order to ensure that the law treats all Queenslanders equally. We continue to welcome this Government's support of the LGBTI community in Queensland, and sincerely hope that this legislation forms part of an ongoing commitment to the equality of LGBTI people in Queensland.

We commend the Queensland Parliament for taking this important step in recognising the importance of equality before the law and correcting the discrimination faced by many gay men who have been prosecuted under this law. We are proud to see that Queensland is addressing the injustices faced by the LGBTI community, and we believe that continuing to do so by passing this Bill will only serve to enhance the community spirit and make Queensland a better, more equal and inclusive place to live.

Yours faithfully,

**Mr Thomas Clark**  
**Director of Law Reform**  
LGBTI Legal Service Inc.

