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## Clearer, fairer, and with a focus on prevention: report recommends significant changes to Queensland's Anti-Discrimination Act

The final report of a review of state discrimination laws by the Queensland Human Rights Commission has been tabled in parliament today.

*Building belonging: Review of Queensland's Anti-Discrimination Act 1991* sets out a path forward to ensure the law is effective in protecting people from discrimination and sexual harassment.

"The Act has played a pivotal role in preventing discrimination and promoting inclusion since its introduction in 1991," says Queensland Human Rights Commissioner Scott McDougall.

"But it is now 30 years old, and Queensland today is, in some ways, a vastly different state to Queensland 30 years ago. This review provided an excellent and timely opportunity to look at whether the Act continues, in the words of its preamble, to 'reflect the aspirations and needs of contemporary society' – including the need to belong.

"In the last 30 years we have gained a much deeper understanding about the harm caused by discrimination – and the psychological damage to individuals, and more broadly the social and economic costs borne by the community – when people are treated unfavourably for an unfair reason," says Mr McDougall.

The report includes 46 recommendations to strengthen and clarify discrimination law, including to extend protections to people experiencing homelessness and victim-survivors of domestic and family violence.

A key recommendation of *Building belonging* is the introduction of a positive duty, to require organisations and businesses take reasonable and proportionate steps to prevent discrimination before it happens.

"The Terms of Reference for the Review provided to us by the Attorney-General specifically directed us to examine whether the law should create a positive duty on organisations to eliminate discrimination and sexual harassment," says Mr McDougall.

Enforcement of the Anti-Discrimination Act currently relies on resolving complaints made by individual people about conduct that has already happened. The Commission says that given the barriers that many people face in making a complaint, this approach has limited the effectiveness of the Act to protect people from discrimination, and that systemic discrimination has remained largely unaddressed.

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“The consistent theme that emerged throughout our extensive consultation and submissions processes was that the current system lacks a preventative focus. The primary way the Act is enforced is through complaints made by the targets of discrimination or harassment – and making those complaints often compounds the impact of their experiences. In my view, placing the compliance burden solely on individual complainants is both unfair and ineffective. The introduction of a positive duty was strongly supported by consultations and submissions, would aim to foster cultural change, and would shift the focus of the Act from being reactive to proactive,” says Mr McDougall.

The review was guided by comprehensive and wide-ranging Terms of Reference, and the Commission says its extensive consultations and submissions processes, along with a thorough analysis of other jurisdictional approaches and human rights protections both domestically and internationally, led to the emergence of clear, evidence-based recommendations to modernise Queensland’s existing protections.

“Over the course of the review we conducted over 120 consultations with stakeholders, held 4 public consultations across regional Queensland, led 7 roundtables including with children and young people and people with disability, received 130 submissions that responded to our discussion paper as well as 29 general submissions, and had over 1000 responses to our online survey asking people about their experiences of discrimination and their suggestions for change – an extraordinary amount of public engagement, particularly given the relatively short timeframe for a review of this size and the impact of COVID and natural disasters,” says Mr McDougall.

The reforms recommended by the review are aimed at:

- **Eliminating discrimination** by introducing a new Act, with objects that include protecting and promoting the right to equality and eliminate discrimination and sexual harassment to the greatest extent possible.
- **Refining the key concepts** to ensure the legal tests for discrimination respond effectively to the problems they are seeking to address and are easy to understand and apply.
- **Shifting the focus to prevention** to prevent discrimination and sexual harassment before it happens.
- **Improving the complaints system** to ensure it is flexible and efficient, and to enhance access to justice.
- **Increasing protections** to ensure all people who require protection under the Act are included, and that coverage of the law extends to all contexts and settings where unfair discrimination occurs, subject to reasonable exceptions.

The Commission says that the proposed reforms would introduce a new phase of addressing discrimination.

“We are excited about the capacity of our recommended reforms to improve the efficacy of the Act in bringing about systemic change. We hope that this review will strengthen the law and achieve a more equal Queensland where everyone belongs,” says Mr McDougall.

The Queensland Government has not yet announced whether it will support the report’s recommendations in full.

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