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12 December 2019

Committee Secretary

Health, Communities, Disability Services

and Domestic and Family Violence Prevention Committee

Parliament House

BRISBANE QLD 4000

***By email:*** health@parliament.qld.gov.au

Dear Committee

**HEALTH LEGISLATION AMENDMENT BILL 2019**

Thank you for the opportunity to make a submission to the inquiry into the Health Legislation Amendment Bill 2019 (the Bill). This submission is confined to measures in the Bill to prohibit the practice of conversion therapy.

**Summary**

In summary, the Queensland Human Rights Commission (the Commission) strongly supports the passage of clause 28 of the Bill.

**Conversion Therapy**

The Bill was introduced on 28 November 2019 by the Minister for Health and Minister for Ambulance Services and referred to the Committee for consideration.

The Bill would amend the *Public Health Act 2005* to prohibit the practice of conversion therapy by health service providers in Queensland. The objective is to protect the lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ+) community from harm caused by conversion therapy and to send the strong message that being an LGBTIQ+ person is not a disorder that requires treatment or correction.[[1]](#footnote-1)

Introducing the Bill implements one of the key recommendations made to state governments in the major 2018 report about conversion therapy in Australia, *Preventing* *Harm, Promoting Justice: Responding to LGBT conversion therapy in Australia*[[2]](#footnote-2)(Preventing Harm, Promoting Justice).

If the Bill is passed, Queensland will be the first Australian jurisdiction to take legislative action to address these harmful and degrading practices.

**Ending Sexual Orientation Conversion Therapy Roundtable**

My delegate participated in the *Ending Sexual Orientation Conversion Therapy Roundtable* (the Roundtable), convened by the Minister for Health and Minister for Ambulance Services, in November 2018. At the Roundtable my delegate expressed the Commission’s view that the *Anti-Discrimination Act* *1991* provides only patchy protections for people in relation to this issue, and a legislative approach is warranted to prevent health practitioners from engaging in practices that seek to change or supress sexual orientation or gender identity.

It is encouraging to see that the feedback from the Roundtable has been properly considered and incorporated into the Bill.

**The role of the Queensland Human Rights Commission**

The Queensland Human Rights Commission has functions under the *Anti-Discrimination Act 1991* and the *Human Rights Act 2019* to promote an understanding and discussion of human rights in Queensland, and to provide information and educative services about human rights.

Queensland’s Human Rights Act 2019 and Anti-Discrimination Act 1991 contain specific protections for LGBTIQ+ people, which we work to uphold.

The Bill aligns with the Commission’s vision of making human rights real for everyone in Queensland.

**Preventing Harm**

The Commission supports the Bill because it aims to prevent harm to people who identify as LGBTIQ+ whilst also sending a strong message to young people who are diverse in sexuality or gender identity that they are not ‘broken’ or ‘disordered’.

LGBTIQ+ people are currently vulnerable to harm from practices that seek to supress or change their immutable characteristics of sexuality or gender identity. There is ample research to indicate that the mental health of LGBTIQ+ people is significantly worse than the broader population.[[3]](#footnote-3) While it is difficult to measure the prevalence of conversion therapy in contemporary Australia, the Preventing Harm, Promoting Justicereport cited survey results from the United Kingdom, a comparable jurisdiction.[[4]](#footnote-4) The report also provided qualitative data in the form of interviews with people who had received conversion therapies over the period 1986 to 2016. The reported impacts of receiving conversion therapy on individuals included experiencing self-hatred and shame, grief and loss, loss of relationships, loss of intimacy, connection and pleasure, mental health problems and self-harm.[[5]](#footnote-5)

Regardless of the prevalence of conversion therapy practices, the extent of the harm alone justifies a strong legislative response.

**Human Rights**

The Bill is consistent with Queensland’s international obligations to uphold the human rights of everyone, regardless of sexuality or gender identity. The human rights of LGBTIQ+ people have been affirmed and upheld though various international human rights treaties, including the International Covenant on Civil and Political Rights (the ICCPR).

The *Human Rights Act 2019* aims to consolidate and establish statutory protections for human rights recognised under human rights treaties. A key human right protected under the *Human Rights Act 2019* is the right to recognition and equality before the law, based on articles 16 and 26 of the ICCPR.[[6]](#footnote-6) Other relevant human rights expressed in the ICCPR and the *Human Rights Act 2019* that may be afforded protection by the Bill include the right to freedom of expression,[[7]](#footnote-7) and the right to privacy and reputation.[[8]](#footnote-8) Further, the passage of the Bill would be consistent with the right to receive health services without discrimination.[[9]](#footnote-9)

The Yogyakarta Principles[[10]](#footnote-10) (the Principles) were developed to inform state parties’ understanding of how existing human rights apply to LGBTIQ+ people. With respect to the right to recognition and equality before the law as it relates to LGBTIQ+ people, the Yogyakarta Principles includes the following statement:

*No one shall be subjected to pressure to conceal, suppress or deny their sexual orientation or gender identity.*[[11]](#footnote-11)

In relation to medical care, Principles state that:

*Notwithstanding any classifications to the contrary, a person’s sexual orientation and gender identity are not, in and of themselves, medical conditions and are not to be treated, cured or suppressed.*[[12]](#footnote-12)

The Principles recommend that state parties:

*…ensure that any medical or psychological treatment or counselling does not, explicitly or implicitly, treat sexual orientation and gender identity as medical conditions to be treated, cured or suppressed.*[[13]](#footnote-13)

Passing the Bill would contribute to ensuring the human rights of LGBTIQ+ people in accordance with international human rights obligations as articulated in the Principles.

**Discrimination**

The *Anti-Discrimination Act 1991* provides protections from discrimination for people in Queensland on the basis of their sexuality, sex and gender identity.

The Bill is consistent with the purposes set out in the *Anti-Discrimination Act 1991* in promoting the equality of opportunity for everyone and ensuring that all Queenslanders live free from discrimination.

**A Balanced Approach**

Conversion therapy can occur in both clinical settings and in pastoral care settings within faith communities in Queensland. By limiting the scope of the Bill to include only the actions health practitioners, the Bill avoids any disproportionate incursion into right to freedom of thought, conscience, religion and belief.[[14]](#footnote-14)

The Bill is also consistent with the recommendations of expert bodies including the Australian Psychological Association, Australian Medical Association and World Health Organization, which all strongly oppose the use of conversion therapy.

It is vital to ensure that any person is able to explore issues around their sexuality or gender identity with a counsellor or psychologist or seek other treatment in an accepting and affirming setting. Importantly, the Bill ensures that affirmative care models can continue unimpeded.

I commend the Queensland government for its continued efforts to promote the human rights of LGBTIQ+ people and in leading the way on this issue.

Thank you for the opportunity to provide a submission on the Bill.

Yours sincerely



**SCOTT MCDOUGALL**

**Queensland Human Rights Commissioner**

1. Explanatory Memorandum, Health Legislation Amendment Bill 2019 (Qld). [↑](#footnote-ref-1)
2. Jones, TW, Brown, A, Carnie, L, Fletcher, G, and Leonard, W (2018) *Preventing* *Harm, Promoting Justice: Responding to LGBT conversion therapy in Australia*. Melbourne: Latrobe University and Human Rights Law Centre. [↑](#footnote-ref-2)
3. LGBTI National Health Alliance, “The Statistics at a Glance: The Mental Health of Lesbian, Gay, Bisexual, Transgender and Intersex People in Australia”, 2016 at <https://lgbtihealth.org.au/statistics/> [↑](#footnote-ref-3)
4. Around 7% of respondents had received or been offered conversion therapy, with around 13% of trans and gender diverse respondents having been offered conversion therapy. Source: National LGBT Survey: Research Report (Manchester: Government Equalities Office, 2018), 83-94. [↑](#footnote-ref-4)
5. Jones, TW, Brown, A, Carnie, L, Fletcher, G, and Leonard, W (2018) *Preventing* *Harm, Promoting Justice: Responding to LGBT conversion therapy in Australia*. Melbourne: Latrobe University and Human Rights Law Centre at p38-41. [↑](#footnote-ref-5)
6. Section 15 *Human Rights Act 2019* (Qld) [↑](#footnote-ref-6)
7. Section 21 *Human Rights Act 2019* (Qld) [↑](#footnote-ref-7)
8. Section 25 *Human Rights Act 2019* (Qld) [↑](#footnote-ref-8)
9. Section 37 *Human Rights Act 2019* (Qld) [↑](#footnote-ref-9)
10. *Yogyakarta Principles*, 2017 [↑](#footnote-ref-10)
11. *Yogyakarta Principles*, 2017 – principle 3. [↑](#footnote-ref-11)
12. *Yogyakarta Principles*, 2017 – principle 18. [↑](#footnote-ref-12)
13. *Yogyakarta Principles*, 2017 – principle 18. [↑](#footnote-ref-13)
14. Section 20 *Human Rights Act 2019* (Qld) [↑](#footnote-ref-14)