



20 July 2016

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

Email 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, and to remove references to "sodomy".

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 Queensland AIDS Council believes it is imperative to remove any barrier to access of healthcare for all LGBTI people, and we believe that an unequal age of consent is one such barrier to equal access to healthcare. We are concerned that with the current inequality of age of consent, young people who are sexually active are reluctant to access sexual health services including HIV and other STI testing and preventative health education for fear of being prosecuted.

One of the significant barriers to accessing healthcare for LGBTI people is disclosure of gender identity or sexuality. Clinicians, healthcare workers, youth workers and health promotion officers spend a lot of time developing rapport with young LGBTI people, and it is only through this rapport being built that disclosure of complex issues relating to sexuality or gender identity is possible.



The barrier placed by unequal age of consent, the barrier of “fear of prosecution”, significantly reduces rapport between health care workers and community, and therefore reduces the ability to provide appropriate healthcare for LGBTI community.

Young men who have sex with men who have engaged in anal sex, are less likely to disclose this to a clinician through fear of prosecution of either themselves or their sexual partners. This non disclosure of sexual behavior prevents a risk analysis conversation between a health care provider and young person, and also prevents testing for HIV and other STIs.

Clinic 30, the sexual health clinic based at 30 Helen Street, Teneriffe is aware of the barriers of unequal age of consent directly from patients accessing our service. Below are actual quotes from patients accessing our service:

“I have been having sex with guys for three years. Some of the anal sex was with condoms, but sometimes it wasn’t. Because I was under the age of consent, I never spoke to anyone about it. This is the first time I have been tested for HIV in my life, and I’m freaking out.”

James, 19, patient of QuAC’s Clinic 30.

“Well, I bought these durex “ultra slim” condoms and they were literally so hard to put on. So this guy was having a really hard time putting it on and it was getting embarrassing for both of us so I was like don’t worry about it. And I didn’t get anything from him, to another to another. Sometimes we just forget to use them too, don’t even plan to bareback. I never spoke to anyone about this happening when I was 17 because I was worried about going to jail, but now that I’m 20, I know I don’t need to worry about telling a doctor.”

Peter, 20, patient of QuAC’s Clinic 30.

It’s a legacy of the unequal past which I know compares to the inequalities of the 70’s -90’s, but still affects all in the community – and perhaps people of my age and younger are not aware about how the inequalities affects them. As a 17 year old I was threatened by my boyfriend’s (then 16) mother that she would make a complaint to police. Luckily for me it never stopped me from getting STI check ups, but I know friends that never did get checked, or lied about their sexual history to their family doctor “just to be safe”.

Joe, LGBTI community member engaged with QuAC.

In addition to placing a barrier to accessing sexual health care, the unequal age of consent significantly damages the mental health of LGBTI young people. The inequality of age of consent signals to young people that engaging in anal sex is dirty, taboo, or dangerous and should only be practiced by people older than themselves. It signals therefore that young LGBTI people engaging in anal sex themselves are dirty, the behavior should be kept a secret, and that sexual health should not be discussed until the young person reaches the age of consent.



The unequal age of consent around anal sex signals to young gay men that pleasure and intimacy of having sex with a person they love, in a consenting safe environment, is secondary to the taboos of anal sex placed on inequality before the law. The stigma this creates for young people should be challenged and removed as soon as possible.

The Queensland Gay Community Periodic Survey (GCPS) provides guidance on the sexual activity of young men who have sex with men in Queensland. In 2015, 1.7% of participants were 16-17 years of age. Within this age group, only 32% had ever been tested for HIV, and only 22% had been tested for HIV in the past 12 months. Of this group, nearly 10% had sex with more than 5 men in the past 6 months, whilst 35% had sex with 2-5 men. 80% of the 16-17 year olds had sex with at least one man in the past six months.

The GCPS shows us that sexual health is an issue for young gay men, and that without equality of age of consent, the barriers to HIV testing, and avoiding disclosure to health care providers on sexual activity will continue.

The Queensland AIDS Council further supports the removal of references to “sodomy”, and believes the term should be replaced with “anal intercourse”. The term “sodomy” had connotations of outdated laws and moral standards that Queenslanders have moved from many years ago. It reinforces negative connotations around anal sex – suggesting that anal sex is taboo or dirty. Instead the use of the term “anal intercourse” provides an opportunity to discuss anal sex in a way that is not stigmatized, particularly where anal sex is consensual, enjoyable, and a form of expression of love between adults.

The Queensland AIDS Council commends the Queensland Parliament for taking the step to reduce stigma and discrimination faced by LGBTI people, and in particular gay men and men who have sex with men around age of consent. We believe that by passing this Bill, the Queensland Parliament will enhance equality, and make Queensland a more equal and inclusive place to live for LGBTI people.

Yours faithfully,



Mr Michael Scott
Executive Director
Queensland AIDS Council

