

18 November 2018

Committee Secretary  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
BRISBANE 4000

Only by email: [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

Dear Committee Secretary,

***Anti-Discrimination (Right to Use Gender-Specific Language) Amendment Bill 2018***

We thank you for the opportunity to make this submission to the inquiry into the *Anti-Discrimination (Right to Use Gender-Specific Language) Amendment Bill 2018 (Bill)*.

Caxton Legal Centre is Queensland's oldest community legal centre. Caxton Legal Centre's objects are to provide legal and social welfare services to low income and disadvantaged persons in need of relief from poverty, distress, misfortune, destitution and helplessness, and to educate such people in legal, social welfare and related matters.

We are an independent, non-profit community organisation providing free legal advice, representation, social work services, information and referrals.

We routinely provide advice and representation to complainants and respondents in matters that fall under the *Anti-Discrimination Act 1991 (Act)*. In the 2017/18 financial year we provided 180 advice and representation services to clients concerning discrimination.

We do not consider that it is necessary to amend the Act in the way proposed by the Bill and we do not support the introduction of the Bill.

***Purpose of the Anti-Discrimination Act***

1. The preamble to the Act provides that Parliament enacted the Act for the promotion of opportunity for everyone by protecting them from unfair discrimination in certain areas of activity and from sexual harassment and certain objectionable conduct. The Act

achieves this objective by prohibiting unlawful direct<sup>1</sup> or indirect discrimination<sup>2</sup> on the basis of 15 attributes<sup>3</sup>, including sex, gender identity and sexuality.

2. The Bill effectively seeks to treat the 'use of gender specific language' as a protected attribute.
3. All attributes protected in the current Act were included to ensure protection of the human rights of particular groups of people who do not fully enjoy their fundamental rights in public life and are more vulnerable to human rights violations.
4. Those in our society who wish to use gender-specific language do not have any particularly vulnerability which requires protection. In fact, the promotion of such a 'right' is likely to expose those people with the attribute of gender identity or who are transgender, gender diverse or intersex to increased discrimination.
5. In our experience, the use of gendered language (such as pronouns), which does not accord with the gender identity of transgender and gender diverse people is a persistent feature in many of their lives. In our view, the inadvertent use of an incorrect gender pronoun will not amount to unlawful discrimination. However, deliberate and persistent mis-gendering of a transgender or gender diverse person causes significant harm.
6. The Act should not be amended to promote conduct which could cause significant harm to a vulnerable group which the Act also seeks to protect.

*Provision of facilities or services that do not accommodate particular persons*

7. Clause 6 of the Bill proposes to protect entities which provide facilities or services that do not specifically accommodate persons who are not, or do not identify as, male or female.
8. This clause is unusual in the context of the Act as it provides protection from discrimination for an 'entity'. The protection from direct and indirect discrimination in the Act only apply to individuals.
9. 'Entity' is not defined in the Bill but the explanatory notes for the Bill states:

Under this section, an *entity* is taken to be any organisation providing services and facilities. This includes businesses, sporting and community groups or non-profit organisations, amongst others.
10. Clause 6 effectively authorises less favourable treatment of people who do not identify as either male or female by entities.
11. This clause is incompatible with the objects of the Act and in our view, should not be incorporated.

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<sup>1</sup> s.10 *Anti-Discrimination Act 1991*

<sup>2</sup> s.11 *Anti-Discrimination Act 1991*

<sup>3</sup> s.7 *Anti-Discrimination Act 1991*

Please do not hesitate to contact Klaire Coles, Acting Co-Director by telephone to [REDACTED] or by email to [REDACTED] if you have any questions regarding this submission.

Yours faithfully



Caxton Legal Centre Inc.

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