



25 November 1997

Gay and Lesbian Welfare Association Inc

The Secretary
Legal, Constitutional and Administrative Review Committee
Parliament House
George Street
Brisbane Qld 4000

Dear Committee,

Issues Paper No. 3: September 1997

I enclose our submission in relation to the above Issues Paper. If there is any further information you would like, please do not hesitate to contact me,

Yours sincerely,

Handwritten signature of Roger Sawkins

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Donations of \$2 or more are tax deductible

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**THE PRESERVATION AND ENHANCEMENT OF
INDIVIDUALS' RIGHTS AND FREEDOMS:
SHOULD QUEENSLAND ADOPT A BILL OF RIGHTS?**

The following are the comments by the **Gay and Lesbian Welfare Association Inc (GLWA)** on some of the issues contained in the Issues Paper.

GLWA was established in 1984 to run the Gayline and Lesbianline counselling and information services. We have presented workshops on gay, lesbian, bisexual and transgender issues to a wide variety of groups and organisations. We also have extensive contacts with groups and individuals of all ages. We have made submissions to Governments and others in relation to all aspects of our clients.

This submission is made with the following background (sources for the statistics can be supplied on request):

- About 10% of people are gay or lesbian, with a much larger proportion engaging in bisexual behaviour.
- Whilst fewer people will experience gender dysphoria, their issues are often a reflection of many people's difficulties with gender issues.
- Lesbian women are six times more likely to be victims of physical assault than other women.
- Gay men are four times more likely to be victims of physical assault than other men.
- Most of these assaults are perpetrated by men in the 16 to 24 age group, usually in groups, and are done because the victim is assumed to be gay or lesbian.
- Around 30% of people in the 16 to 24 age group attempting and completing suicide are gay or lesbian. This is three times the rate of other people in the age group.
- Many young people who are gay, lesbian, bisexual or transgender will be forced to leave home, either because of specific rejection by their parents or because they do not believe it is safe to disclose their sexuality to their family.
- There is no emergency accommodation specifically for gay, lesbian, bisexual and transgender people in Queensland. The only specific accommodation for those who are forced to leave home is limited to 4 beds only ("Prospect House"). Other accommodation is not always safe for them.
- The only Queensland Government legislative recognition of gay, lesbian, bisexual or transgender issues is some very limited rights under the Queensland Anti-Discrimination Act. The deficiencies include:
 - There is no protection for transgender people in the legislation.
 - The legislation protects people on the basis of "sexual activity" not sexuality (and only in the case of "lawful" sexual activity), which limits the protections supposedly provided. There is no protection on the basis of relationships status, for example.
 - The legislation then removes protection in cases such as homosexual people working with children, religious organisations, etc.

- Queensland Governments of all political persuasions have consistently denied equal rights to people who are, or are seen to be, gay, lesbian, bisexual or transgender. Governments have made legislative decisions which go against the advice of their own advisory bodies (such as the Law Reform Commission).
- Our experience is that Common Law provides no effective protection in the current climate.

We have therefore concentrated on the aspects of the *Issues Paper No. 3* which relate to the gender and sexuality issues of Queenslanders. We have also dealt with the issues in general terms only at this stage. Our comments are as follows:

1. We are surprised that the Committee has not included in its comparative tables the new Constitution of South Africa. This is one of the most modern and highly respected rights documents, and in particular includes the protection of people's rights in relation to gender and sexuality. We ask that the Committee include that document in all future comparisons, publications and considerations.
2. In view of the failure of successive Queensland Governments of all persuasions to protect even the basic rights of gay, lesbian, bisexual and transgender people, we are in favour of a Bill of Rights for Queensland. However, such support is conditional on the Bill of Rights providing that all people get equal rights on the basis of their gender, sexuality and relationship status and no people get any special or additional rights.
3. Not all areas of equal rights can be determined by the Queensland Government. However, it has been demonstrated elsewhere that the majority of rights in relation to gender, sexuality and relationship status can be legislated by the Queensland Government and we believe they should do so.
4. Particular areas where heterosexual relationships at present get special rights to the exclusion of other relationships include:
 - a) Rights to be regarded as a "partner" in relation to discrimination on the grounds of marital status
 - b) Rights to assistance and legal protections in instances of relationship breakdown.
 - c) Rights to equal protection from violence and assault, for example in relation to domestic violence legislation, provision of support services, etc.
 - d) Rights in relation to the death of a partner; for example in relation to funeral arrangements, organ donations, post-mortems, disposal of the body or ashes, inquests, intestacy and sharing in the estate of the deceased, and compensation where the death occurred as a result of negligence.
 - e) Rights in relation to the incapacity of a partner and the automatic right to become the "legal guardian".
 - f) Rights to be regarded as a "close relative" in legal situations such as the granting of bail, giving evidence in court and similar protections.
 - g) Rights in relation to the conception, guardianship and custody of children.
 - h) Rights in relation to employment, superannuation, workers' compensation and other employee benefits.
 - i) Rights in relation to health insurance, taxation, social security and immigration
5. In view of the comments made earlier about the activities of Queensland Governments of all political persuasions in the past, we do not believe a Bill of Rights should be able to be over-riden by an Act of Parliament and hence be subject to the whim of individual governments.