

National Inquiry into Discrimination Against People in Same-Sex Relationships: Financial and Work-Related Entitlements and Benefits
Submission of the
Australian Municipal, Administrative, Clerical and Services Union (ASU)

The ASU is a national union comprising a number of state based Branches who have coverage of members in a range of industries including: airlines, social and community services, local government, clerical and administrative (including call centres), transport and travel, water, rail, energy and taxation.

ASU members cover the spectrum of white and blue collar workers. The ASU has a nationally based caucus for members who identify as lesbian, gay, bisexual, transgender, intersex or queer (GLAM).

This submission is founded on the premise that for the majority of ASU members who may identify as living in a same-sex relationship or identify as being L, B, G, T, I or Q their issues are not freely raised in their workplace. The ASU submission is in the main anecdotal and premised on the union's policy response to work-related entitlements and benefits.

In consideration of the terms of reference for this inquiry, the ASU will submit briefly on

(a) the equal enjoyment of human rights by people who are or have been, a member of a same-sex couple and have any children of a same-sex couple; and

We intend to provide a greater breadth of information in relation to:

(b) equality of opportunity and treatment in employment or occupation for people who are, or have been, a member of a same-sex couple.

(a) The equal enjoyment of human rights by people who are or have been, a member of a same-sex couple and have any children of a same-sex couple.

The ASU subscribes to the notion of equality for all. The union's policies and practices reflect the need to ensure inclusion at all levels of activity. All workers should have access to the same rights and conditions regardless of their relationship status, sexuality or gender.

Recognition of rights for same-sex couples is limited in our experience. It is limited for two reasons: one that individuals are too afraid to raise any such issues that are affecting them directly and second, that if and when their issues are raised there is not the law, regulation, policy or understanding to support their claims.

Australian federal law does not in general reflect the protection or the recognition of same-sex couples. As a result of this lack of recognition, human rights enjoyment cannot be found. Same-sex couples with children have the added burden of attempting to engage in systems of government e.g. health care, child care, welfare that do not recognise the same-sex family structure and all of its complexities. The financial burden this imposes on families is enormous.

(b) Equality of opportunity and treatment in employment or occupation for people who are, or have been, a member of a same-sex couple.

The key areas in which the ASU is able to provide the Inquiry with information relevant to our members' experiences within the areas of employment agreements, carer's leave, family leave, parental leave, sick leave and bereavement leave.

Employment Agreements: under the new federal industrial legislation there are a variety of agreements that can be reached between an employee and employer. All of these agreement types provide an opportunity for the inclusion of provisions for same-sex couples in all aspects of their employment conditions.

For individuals seeking employment, who wish to negotiate the inclusion of rights for their same-sex partner and family it is an onerous task. A person seeking employment is least likely to be identifying their sexuality and family needs in the knowledge that they have limited or no legislative support to do so.

For currently employed individuals if they are required to re-negotiate their individual employment conditions they face the risk of being forced into accepting conditions which are less than acceptable.

Under collective agreements, employees have a better opportunity to gain access to a broader range of rights. Employees do need the protection of anti discrimination legislation to support their claims which is currently not available to underpin workplace rights such as various leaves.

Through many collective agreements the ASU has been able to establish rights for same-sex couples under provisions such as carer's leave and parental leave. But these provisions are the exception to the rule.

Employers, given the option, will not undertake steps to be inclusive when they do not see a community drive or legislation to provide or prevent such provisions.

Sick leave, bereavement leave, parental leave and carer's leave all rely on the definitions of 'family'. Although state legislation provides for various definitions of family which includes same-sex de facto couples, the federal jurisdiction only recognises same-sex couples under anti terrorism legislation. Until such time as federal law reflects values of inclusivity, diversity and equality, workers will continue to suffer discrimination as a result of their same-sex couple status.

We congratulate HREOC for undertaking this Inquiry and offer that for any further information or clarification Jo Justo, National Industrial Officer can be contacted on jjusto@asu.asn.au or 02 9265 8255.