

25 November 2020

Hon Vickie Chapman MP
Attorney-General
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Dear Attorney- General

Thank you for the opportunity to comment on a draft Bill entitled the [*Equal Opportunity \(Religious Bodies\) Amendment Bill 2020*](#) (the draft Bill) that would, if enacted, make a number of amendments to the religious bodies exemptions currently contained in section 50 of the Equal Opportunity Act 1984 (SA) (EO Act).

COTA SA is an older people's movement run by, for and with older people. We represent the aspirations, interests and rights of more than 630,000 older South Australians. We reflect the diversity of modern ageing in terms of living arrangements, relationships, income, health, ambitions and aspirations. COTA SA connects with thousands of older people each year throughout SA and our policy and advocacy is guided by the COTA SA Policy Council made up of older South Australians from a diverse range of backgrounds. We are part of the COTA Federation with independent COTAs in each state and territory and COTA Australia.

COTA SA, through the Rainbow Hub, consults regularly with LGBTI elders including on matters of policy such as this. We do not purport to be legal experts and so provide the following guidance about what the changes should and should not do **based on personal experience and community consultation** rather than suggesting the legal mechanisms to achieve them.

We provide the following points of feedback -

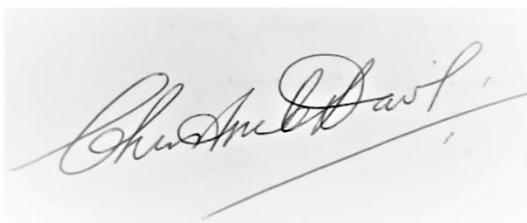
1. We support the need to clarify and narrow the exemptions available to religious bodies from the provisions of the Act. To that end, the proposed changes to S50 do appear to improve the protection from discrimination on the grounds of sex, sexual orientation, gender identity and intersex status. The draft Bill addresses the concerns of the LGBTI community relating to the uncertain scope of the religious bodies exemption in the EO Act by clarifying that the general religious bodies exemption does not extend to a defined range of services that many LGBTI elders will rely upon including health care and disability support, aged care, emergency accommodation and public housing. This was a recommendation of the South Australian Law Reform Institute (SALRI) in its 2016 review which followed extensive consultation including with older members of the LGBTI community.
2. It is our very strong view that the exceptions from the EO Act should only be allowed where they relate to a narrow set of activities related to direct participation in religious practices and not to any activities that involve the delivery of services, including with the use of public funding, for members of the community. We oppose any mechanism in the EO Act that would enable exemption from

discrimination provisions that could be applied to either clients or employees. We emphasise the importance of employees being protected both for their own sake and also because it is a fundamental principle of safe and inclusive services that they are offered by employees who reflect community diversity. As currently drafted, it is not clear whether the new s50(c) would provide protection from discrimination for *employees* of religious bodies involved in the delivery of the listed services or whether it would be limited to *service provision* only (eg patients /clients but not employees).

3. We query whether the list of services defined at S50(1)(c) might serve to limit rather than extend protection from discrimination given it excludes a range of other services that are equally likely to be relied upon by members of the LGBTI community such as legal and financial services, tertiary education etc.
4. Adequate resourcing is required to build awareness and support access to the protections available (existing and proposed) of the EO Act. We note that the SALRI found that there was a general lack of awareness of the relevant legal frameworks in its 2016 review and as a result recommended a wider review of equal opportunity protections and services, including the resourcing and powers of the Equal Opportunity Commission. We support such a review as an important adjunct to making the new provisions effective and accessible.

Thank you for the opportunity to comment on the amendments. We would be very happy to provide further comment or clarification. We would also offer to assist in building awareness about the changes amongst the LGBTI elders community of South Australia.

Yours sincerely



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cc LLPSubmissions@sa.gov.au