

# COMMUNITY LEGAL CENTRES TASMANIA

Animal Welfare Community Legal Centre • Environmental Defenders Office • Hobart  
Community Legal Service • Launceston Community Legal Centre • North West Community  
Legal Centre • Tenants' Union • Women's Legal Service • Worker Assist

24 September 2013

The Honourable Jim Wilkinson  
President of the Legislative Council  
Parliament House  
Hobart TAS 7000

Dear Mr Wilkinson,

**Re: *Anti-Discrimination Amendment Bill 2013***

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We strongly urge you to support the proposed changes to section 17 of the *Anti-Discrimination Act 1998* (Tas). In our opinion, the proposed amendment takes into account the concerns raised by the Legislative Council and strikes the right balance between freedom of expression and the right to be protected from prohibited conduct.

Last year the House of Assembly sought to move an amendment to section 17 of the *Anti-Discrimination Act 1998* (Tas) which would have broadened the range of attributes amounting to prohibited conduct because it offended, humiliated, intimidated, insulted or ridiculed another person.

In order to balance the competing interests of freedom of expression and the right to be protected from prohibited conduct, section 17 conduct will be subject to the same 'fair comment' defence already provided for in section 55 of the *Anti-Discrimination Act 1998* (Tas). This section provides that prohibitions on conduct will not apply if:

The person's conduct is –

(a) fair report of a public act; or

(b) a communication or dissemination of a matter that is subject to a defence of absolute privilege in proceedings for defamation; or

(c) a public act done in good faith for –

(i) academic, artistic, scientific or research purposes; or

(ii) any purpose in the public interest.

As the Bill currently stands conduct will be prohibited because it offends, humiliates, intimidates, insults or ridicules a transgender or intersex person but not a gay or lesbian person. This was an inadequacy in the original Act that can be rectified through this amendment.

We strongly believe that conduct of the type amounting to prohibited conduct (threatening, humiliating, offensive, ridiculing or insulting behavior) on the attributes contained in the act has no place in the Tasmanian community and persons subject to such conduct should have the full protection of the law.

Including all of the proposed attributes will also ensure a greater level of consistency in how the law is applied, ensuring that persons subject to racism, sexism and sexual orientation etc. are guaranteed the adequate protections under the *Anti-Discrimination Act 1998* (Tas).

If we can be of any further assistance, please do not hesitate to contact us.

Kind regards,

Benedict Bartl  
Policy Officer  
**Community Legal Centres Tasmania**

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