

Submission to the *National Inquiry into Discrimination against People in Same-Sex Relationships: Financial and Work-Related Entitlements and Benefits*

Thankyou for the opportunity to make this submission to the Human Rights and Equal Opportunity Commission in relation to the *National Inquiry into Discrimination against People in Same-Sex Relationships: Financial and Work-Related Entitlements and Benefits*.

My partner and I have been in a committed relationship for 13years. We have two children, Hannah aged 3, and Ava aged 1.

I wanted to make a submission to this enquiry to outline some of the areas of law that my family experience discrimination because our same-sex partnership is not legally recognised. Specifically I wanted to focus my submission on discrimination that my children may experience.

Firstly, it is important to note that because we each conceived one of our daughters, we are not considered the legal parents of both our children. In Victoria we are not allowed to adopt our children to remedy this fact. In order to minimise the discrimination that this causes we have obtained court orders that gives residency and contact responsibilities to us as a couple and limits the donor's responsibilities. Although this remedy has been invaluable in dealing with the hospital system, childcare and other service systems, it is inadequate because it does not and cannot make Hannah my daughter nor Ava Marions daughter *in law*. Further, a court order is only relevant while the girls are minors, once Hannah is 18years old she will have no legal relationship to me nor Ava to Marion. Although our daughters have the same father, they are not considered sisters *by law* and their birth certificates do not recognise the existence of each other.

A potential financial implication of this is that should my parents die and leave a bequest to each of their grandchildren, Hannah who has no legal relationship with my parents because she is not legally my daughter, is not legally entitled to the bequest. Although my parents consider Hannah their granddaughter they would need to name her specifically in their wills.

I suspect that this lack of legal relationship may also have discriminatory implications for our children in workers compensation claims, superannuation, and other employee entitlements although I don't know the specifics of this and I hope they are well covered in other submissions.

Workplace leave entitlements

When Ava was born, Marion was required to use her holidays so that she could attend the birth and support me in the days that followed. If Marion had been my husband, then she would have been able to claim paternity leave.

Nine months after Hannah was born I resigned from my work to care for her full time while Marion returned to work. If we were in a heterosexual relationship I would have been entitled to take unpaid parental leave up to her first birthday under my award. In my case it was up to the discretion of my employer if they would allow unpaid leave.

Medicare and PBS

As the federal government does not recognise our family, and considers each of us as single mothers, we are not able to financially benefit fully from the Medicare Safety Net or the PBS. One of us can register with both dependent children and the other must be considered as an individual. This means that the individual cannot contribute to the family reaching the safety net threshold, and would have to spend considerably more money before they are able to benefit from the two schemes.

Childcare

Childcare is another area where our family is not recognised. Both of our children attend childcare three days a week, however, we are treated by the childcare centre as two families. This is because the federal government does not recognise our family structure. This means that, because Marion is

working full time, we receive almost no government assistance for Hannah's child care. As I work 3 days a week we receive about 78% benefit. I don't know if this results in our being better or worse off financially than if we were considered in the same way as a heterosexual couple. In any case we experience, yet again, a lack of recognition of our family structure that has resulted in confusion at the childcare centre and a reminder of our legal non recognition.

Tax

Because we are treated as singles, we also experience financial disadvantage in the tax system. I'm not fully aware of all of these areas of discrimination, however I am aware that we are not able to claim each other as a dependent spouse. This was particularly relevant while each of us took a year off to have our children and were fully supported by our partner. During this time, our partner was not able to claim us as dependent.

My submission has been focussed particularly on some of the areas that my children experience financial disadvantage because their parents are in a same-sex relationship. This lack of recognition, as well as having a demonstrable financial disadvantage in the provision of government services, superannuation, workers conditions and entitlements, medical expenses, and tax, is a constant course of strain. In dealing with government agencies and service providers we have to explain our family structure and try to work out what the best arrangement would be for our family. At times we have received incorrect or conflicting advice because some government officers are not clear about the level of recognition in this area. This is a constant stress other families don't even have to consider. Indeed when heterosexual friends and work colleagues are told about these problems they are shocked that discrimination continues to affect our relationship and our children.

I hope that these examples, though by no means comprehensive, provide some concrete examples for your enquiry and ensure that children who live in gay or lesbian headed families are considered in the final recommendations.

Yours sincerely,

Janet Jukes