



EQUAL BUT NOT  
BY ARTIST FERN SMITH  
SHINES A LIGHT TWO ACTIVISTS  
MANNIE DE SAXE  
KENDALLOVETT

FERNARTZ STUDIO  
14/10/2017 -22/10/2017 BH

“Wednesday 1 July 2009 will be long remembered in Australian history as the day the most vulnerable of our community, lesbian and gay Centrelink dependants, suffered dreadfully unjust discrimination. Ironically, almost to the day, it coincides with the 40th anniversary (28 June 1969) of the New York Stonewall riots – the commencement of the modern homosexual rights movement” *Peter de Waal 2009*

## **Many Flourishing thankyous**

I thank Ken and Mannie for their enthusiasm, openness and sheer joy of life. They openly shared their life and informed me of their work in human, environmental and mostly LGBTI Rights. The words in this project are sourced from their website joskin.net during the debate with the government.

Thankyou Nick Henderson for generously opening the exhibition.

I thank Sue Hendy for being a people connector in the early stages of the project.

I thank Gabrielle Castree my partner for her continued support, advice and guidance.

And I thank the countless ears I have badgered over the past few years.

## **About project**

I met Ken and Mannie online through lobbying for a grandfather clause to be included in the Government's Same-Sex Relationship bill adopted in 2009.

Years later I came across a letter from Ken and Mannie and they wondered how I was. This letter I tucked into

my soul for another day. Late 2015 early 2016 'equal but not' project began.

'equal but not' is the creative response to the social paradigm surrounding the Australian Commonwealth Government's Same-Sex Relationship bill adopted in 2009. The overarching intention of the bill was to remove same sex discrimination.

Ironically the bill with the lack of an appropriate adjustment time or 'grandfather' clause placing many same sex couples in financial hardship; further compounding social and economic isolation and this continues today.

During the introduction of the Bill two parallel and opposing campaigns were launched:

1) equal rights campaigners Mannie De Saxe and Kendall Lovett furiously lobbied the government to include a 'grandfather' clause sadly to no avail. And 2) 'Removing Same Sex Discrimination' Campaign by the Leo Burnett Agency commissioned by Centrelink representing same sex couples as a pair of toothbrushes and green towels.

The contrast between the heroic efforts of equal rights campaigners Mannie De Saxe and Kendall Lovett and

the absurdity of the Centrelink campaign informs  
'equal but not'

The following letters and opinions from Mannie De Saxe and Ken Lovett's website Josken.net on the pages; inters7, inters8, inters9, inters10 and only relate to the Same Sex Relationship Bill. The rest of the sight it wider and broader in scope relating to lesbian, gay solidarity and activities.

## **Letters**

**6 January 2009**

*To: The Hon Jenny Macklin MHR, Minister for Families, Housing, Community Services & Indigenous Affairs,*

*From: Kendall Lovett on behalf of Lesbian & Gay Solidarity*

The members of this group have had time to consider some of the consequences of the recent change of legislative status, to take effect on 1st July 2009, for same-sex couples who are already receiving age or disability pensions.

The government has gone to some length to inform us that, with this legislation, it has removed same-sex discrimination from a wide range of Commonwealth laws. That may well be so on paper but as far as pensions are concerned the Rudd government has just added its own new brand of discrimination against us.

Every significant change to social security laws passed in the last 15 years has included a 'grandfather' clause to minimise harsh consequences for those already in the system (Adele Horin, SMH 6.12.08).

Why wasn't there a grandfather in this legislative change, for lesbians and gays? It looks as though it may well have been intentional to let us know that our relationships aren't really in the same class as hetero marriages.

However, there is still time to give us a grandfather clause allowing those already in the system to be exempted. We think it could be done by one of those convenient regulations that don't always have to be approved by parliament. I think you'll find that Ministers in the previous Howard government used the regulatory system in a raft of anti-terror laws to cover some controversial sections.

The next best status to a marriage is de facto because there is no binding official recognition like a Marriage Certificate so the government equates a same-sex relationship to de facto provided we tell them we are in a marriage-like relationship or Centrelink decides to use its guidelines to determine two people living in the same house are in a marriage-like relationship and therefore a same-sex couple. We had a badge back in the 70s which we wore with pride which said: 'How dare you assume I'm heterosexual!' Now we need to change it to 'How dare you assume that mine is a marriage-like relationship!' Your government joined the previous government to amend the Marriage Act as a union between a man and a woman to the exclusion of all others. So, really it's discriminatory to call a same-sex relationship 'marriage-like' because the government has refused to give us the equivalent status of a regulatory licence, and it has said so, because it would look like a marriage. It's not just discriminatory it's hypocritical to expect us to accept the inappropriate interdependency lower couple rate of pension.

You can get over the whole problem by simply dispensing with the outdated 19th century couple rate

and instead pay the single adult rate to each individual of a couple. It would save a heap of money by doing away with Centrelink's intrusive and costly investigations into people's lives. What an unexpected gift from this government to all those different-sex couples, too. It should be a strong recommendation by Dr Jeff Harmer (Secretary, FaHCSIA) to the Review Panel chaired by the Secretary to Treasury, Dr Ken Henry, of the Inquiry into Australia's Future Tax System. It's the obvious solution to the vexing problem of the couple rate in pensions which is a throw-back to the time when a woman was regarded as a chattel of her husband.

## **7 January 2009**

*Extract from an open letter Written by Mannie De Saxe to the Health Minister Nicola Roxon*

...As an 82-year-old gay man, I would not consider for one moment consulting with, or having anything to do with, a group of people which contained those who actually wish to see people like me eliminated from the face of the earth.

It is incumbent on you as the Minister for Health and Ageing to consider the characters of people appointed

to positions in which they would be dealing with a diverse group of men whose sexuality is a sensitive issue, and has been for much of their lives...

*Coalition of Activist Lesbians (COAL) to Ministers Macklin, McClelland, Plibersek, Swan and Senator Elliot*

...In every major Social Security reform for the past 15 years grandfathering clauses have been included. We do not understand why this has not occurred here.

Lesbians experience our social position and financial security as being strongly influenced by both gender and sexual orientation. Generally women earn less, have few years in the paid work force, little superannuation and have spent years caring for children and others in need. The new legislation will create hardship to a great many lesbians who have planned their living, financial, social and retirement arrangements - including mortgages - on the basis of two financially independent beings. The changes have come too suddenly for people to plan or rearrange their long-term finances and housing. COAL has case studies available.



COAL urges the Federal Government to use regulatory measures to create a grandfather clause to guarantee that lesbians and gay men already receiving income support do not lose their existing entitlements thereby jeopardising their current living arrangements.

COAL further urges the Federal Government to fund an independent advocate to assist lesbians who will be significantly affected by the new legislation. Law reform is a part of the picture but we also need resources to protect those that have already lived a vulnerable life. COAL requests a meeting with the Prime Minister, as a matter of urgency, to discuss these issues...

## **9 January 2009**

*The Spectator - Spare the pink and greys this well-intentioned bill* John Izzard

.... The new laws were a result of lobbying by high-profile, middle- and upper-class gay activists and a recommendation by Australia's Human Rights and Equal Opportunity Commission. The main emphasis is on the legal rights of gay couples to the

superannuation of their partners. The new laws are a welcome reform, and remove substantial injustices. Overall, they are good news.

While the Equal Treatment in Commonwealth Laws bill sprang from the noblest intentions, the Rudd government ignored advice that highlighted the moral and ethical problems this law would unleash regarding privacy, discrimination, harassment, embarrassment, anguish and financial suffering, and that it would affect tens of thousands of aged pensioners and welfare recipients.

Unfortunately, because of ministerial and bureaucratic bloody-mindedness, a small yet vulnerable section of the community is about to get it in the neck, or perhaps more crudely, get a kick up the backside.

With the passing of this bill a new wave of sexual harassment, imagined or real, is about to be undertaken by the Commonwealth's welfare agency, Centrelink.

People living in same-sex relationships will be forced to 'confess' their sexual preference to bureaucrats at Centrelink in order for their welfare payments to be re-assessed, and, most likely, reduced. The most vulnerable group, affected by this intrusion into their privacy, are aged pensioners...

... The bill also has the potential to disrupt and possibly destroy the privacy of this group, many of whom have spent their lives keeping their relationships, if not secret, then at a discreet distance from the officious and the intolerant.

Many have a built-in wariness of government and investigative bodies, and the thought of dossiers and databases, containing details of their personal life and sexual preference, is repugnant and frightening.

The image of thousands of pensioners in their sixties, seventies and eighties shuffling into Centrelink offices around the country, Zimmer frames and electric wheelchairs in tow, whispering across the open-plan office space, 'Yes, I'm gay' beggars belief. And this is a government initiative?

In effect the government is going to force same-sex couples to 'out' themselves under threat of financial punishment or being charged with fraud. Details of their sexual preference and their partner's details will be logged in Centrelink's database, and dossiers kept on their status...

...While many in government see the 'pink and greys' as an easy target, and a chance of reducing the pension budget by about \$9 million a year, they should not underestimate the bent-aged as a fighting force...

### **14 January 2009**

*SX News opinion piece from Vanessa Wagner and was sent to PM Kevin Rudd, AG Robert McClelland, Senator Joe Ludwig and PM Jenny Macklin*

...There seems to be a great bloody mess of a shmuzzle of a train wreck associated with the introduction of the same sex reforms, many of which were cause to crack the bubbly.

But for lots of us, the changes mean bloody rotten, unfair, often devastating loss of income and

concessions that make us wonder whether to pack the trolley and get the hell out of home NOW.

Centrelink, or is that Centrehell, will be treating those of us in same sex couples much as they have single mothers for decades - badly. Snooping, asking questions Of anyone they like, and demanding that you come out as a couple, no matter what your age or circumstances or face stiff penalties, and I mean that in the worst possible way.

Ready to wake up to clip boarded Centrelink junior in your bedroom ticking the box next to 'sexual relationship' next to her section 24 couples guidelines? No I'm not joking.

What are they thinking, what is the PM thinking, gays and lesbians who are octogenarians lining up on their scooters waiting for Centrelink to open so they can shift into gear and speed across the office floor shouting 'gay and grey' to anyone who will listen and immediately take notes?

If it wasn't so shocking it would be the stuff of comedy. Pity the Hollow Men has finished what a field day they would have had.

How the government could not have grandfathered, like they have for other groups for the past 15 years, those who would be hurt by the changes is beyond me. People who are already poor, vulnerable or elderly should not suffer the shock of complying to new regimes their lives were never set up to encounter.

There are lots of case studies, stories of elderly gays and lesbians, people living with HIV and AIDS, and many others, that show the absurd shmuzzle that this situation really is...

*An open letter to PM Rudd by Noel Tovey appeared in ACT Gay*

I write to you as an elder Indigenous man about a matter of grave concern to me.

Our old people suffered great hardship and trauma in the past and you moved to apologise for this and acknowledge that pain. You demonstrated a deep

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understanding of the significance of respecting elders, acknowledging mistreatment and minimising harm. We will always treasure your respectful treatment of our elders on that day of apology, and in years to come.

I am an Indigenous artist and writer and am myself 75 years of age. As an older Indigenous man who is also gay, I am deeply concerned at the suffering of gay elderly people, who, like me, have experienced severe trauma in the past due to the ignorance of those around us. I was taken away from my family in 1940. In 1951, while living on the streets in Melbourne I was charged with 'The Abominable Crime of Buggery'. I was vilified by the Melbourne press and spent time in Pentridge Jail waiting to be sentenced. Several of my friends have committed suicide rather than live a life of fear and shame.

I have grave concerns about the 'same sex equal treatment' reforms and the way in which these may compound the suffering of elderly gay people, including Indigenous people. Elderly gay people are from a generation that preceded civil rights and they were subjected to shock treatment, lobotomy and

other horrors. They hid from view and remain mostly hidden today. Nevertheless, they are elders of our gay community who deserve protection.

I implore you to protect these elderly people from the harm of being forced to reveal their identities, even in confidence, to officers from Centrelink. For this generation, there was no safe confidential context in which to 'come out'. The thought of having to do so now is causing them extreme anxiety and consequent physical harm.

Please give your urgent consideration to enacting grandfathering arrangements in relation to age pensioners to protect gay elders from harm. I am mindful that had my own life story not become a fortunate one, I would more than likely be a hidden gay age pensioner myself today. I know you to be a man of compassion and I appeal to your sense of justice, which was so visible to a proud nation on the day of the apology.

I would be very happy to talk with you further about this serious matter.



**15 January 2009**

*Letter by Clover Moore to PM Rudd on Social Security Benefits – Same Sex Couples*

I write on behalf of a number of constituents who have contacted me about recent changes to the pension entitlements resulting from the Same-Sex Relationships (Equal Treatment in Commonwealth Laws – General Law Reform) Act 2008.

Constituents who have contacted me are concerned that this legislation has the effect of removing rights to single pensions for people who were previously not eligible for benefits paid to couples. They are concerned that some pensioners and beneficiaries will lose their income or suffer significantly reduced income.

Constituents are concerned that some people over the age of 55 years in same sex relationships have planned their financial arrangements based on previous discriminatory laws, policies and practices. I share concern that lesbians or gay men who previously experienced legal and social discrimination

will again be discriminated against. I understand that the Human Rights and Equal Opportunity Commission report Same-Sex: Same Entitlements identified this and recommended steps to prevent these impacts and protect existing rights and benefits. My constituents refer to changes to the Aged Pension for women, with a staged process that did not affect those close to the pension age, and gave time for other women to prepare for a higher pension age. They argue that a similar transitional provisions should apply to pensioners affected by these changes, and that those already receiving aged pensions be allowed to retain those benefits.

I share community concern about unintended impacts of this legislation, which was intended to provide fair treatment for people who have historically been subject to discrimination. Could you please inform me how many people are affected by this measure and what action you will take to protect them?

**21 January 2009**

*Mannie De Saxe, Lesbian and Gay Solidarity extract to the Australian Greens*

...We have noticed that the Australian Greens have been conspicuously silent over the issue of a grandfather clause in the federal government's changes to legislation allowing certain changes for same-sex relationships.

Despite the fact that this has been drawn to the attention of various Greens party members, and despite the fact that Bob Brown is a gay man who should have some understanding of the problems which are about to arise due to hasty and ill-considered legislation, there has been no discussion or announcement from the Greens...

## **22 January 2009**

*Response to Mannie De Saxe's letter to the Greens by Parliamentary & Policy Adviser to Senator Sarah Hanson-Young, Emily Johnson*

I'm sorry to hear that you feel the Greens have not taken your concerns in relation to the possible disadvantages the new same-sex legislation may have on some same-sex couples.

As you would be aware, Senator Hanson-Young advocated for a 12 month transitional period for same-sex elderly couples, facilitating the changeover to the new laws. Disappointingly, this was overwhelmingly voted down by both major parties and independents.

Unfortunately with the composition of the Senate, the Greens cannot successfully move for a Grandfather Clause to be included in this legislation without the support of a major party. I recommend you contact the Attorney-General, and your local ALP member, expressing your disappointment that the Government didn't support the 12 month clause put forward by the Greens, and request that they consider implementing a Grandfather Clause.

In addition to raising your concern with relevant Government Ministers, Senator Hanson-Young will also raise this issue directly with the Attorney-General during the first session of Parliament.

**25 January 2009**

Reply to Emily Johnson by Mannie De Saxe

...Unfortunately, there is no way we could have been aware of this because there do not seem to have been any public statements to the media nor any media releases.

It is simply not enough for the Greens to have tried to achieve change in the senate without any of the major parties supporting it. The Attorney General has so far refused to back down from his original stance, and when some groups have tried to get statements from him at public gatherings, they have been unsuccessful.

What is necessary is for the "grandfather clause" requirement to be discussed in the public arena and to ensure that the government is getting messages loud and clear that they are about to create further discrimination against older gay, lesbian, transgender and HIV/AIDS community members, many of whom have remained in the closet for most of their lives because of persecution, discrimination and other forms of abuse levelled at them over time. They are now in a most vulnerable period of their lives and are about to have Centrelink snooping into their private affairs.

This is most unsatisfactory, and the Greens need to do more to shift the government's approach to the legislative changes - separate but equal is more apartheid and is discrimination continued.

We need immediate change and we need politicians to understand the problems and to act publicly, as Clover Moore and others are doing.

If there have been grandfather clauses for other pieces of legislation during the last 15 years, even during the Howard years, why is it not possible now? Why can't the Greens do it too?

**28 January 2009**

Paul R Martin General Manager Queensland  
Association for Healthy Communities to PM Macklin

I write to raise our concerns about the impact of changes to pension entitlements for same-sex couples and the lack of information from or co-operation by Centrelink in the implementation of these changes. We recommend 'grandfathering' the changes for those

already receiving income support, especially those over 55 years...

QAHC lobbied for and supports the government's long overdue recognition of same-sex couples in federal legislation and regulation. We support equality for all Australians. However the transition from inequality and exclusion, to equality and inclusion needs to consider the impact on the more vulnerable members of our community.

Older lesbian and gay people have lived in an Australia where homosexual acts were illegal, where a blind-eye was turned to discrimination, where abuse, intimidation and physical violence was commonplace, and where their same-sex relationships (and the benefits and responsibilities which come with marriage) were not recognised by the State.

Gay men have lived through the horrors of the HIV epidemic, with many still living with HIV, but unable to return to work due to ongoing sickness. The financial costs on individuals and couples has compounded the physical costs.

Now, finally their relationships are to be recognised and the first tangible impact of this recognition is a reduction in income support for many. This is not fair.

Same-sex couples have had to arrange their finances as two independent people. They have received none of the financial benefits or entitlements afforded by the State to married couples. Older LGBT people have planned their retirement finances on this basis. Now, because they will be treated as a “marriage-like” relationship, one or both partners will have their pension income reduced or stopped completely.

QAHC is already receiving calls from worried seniors and people with HIV, afraid of what will happen to them and afraid of Centrelink investigating their lives and relationships. Many are unwilling to seek information or support from Centrelink (even accessing their website) for fear that Centrelink will track them down and cut their pension. Many have never talked publically or to government services about their relationship.

There has been a lack of information through LGBT community communication channels about the



changes and what they mean, and a lack of independent advice available to LGBT people affected by the changes from services they can trust. People have not had the information or time to make the necessary changes to their finances.

QAHC has tried contacting Centrelink through various means, offering to partner in conducting community forums, asking about plans for public education campaigns and asking about support for individuals. No response has been provided by Centrelink to date.

Consideration needs to be given to how these changes will affect LGBT people already in receipt of income support, just as consideration has been provided to other groups when major changes to the income support system were introduced in the past...

## **2 February 2009**

*Press release: COAL*

Members of the COALITION OF ACTIVIST LESBIANS - AUSTRALIA (COAL) have expressed their shock and dismay at the Labor Government's failure to protect

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lesbians on income support through the provision of a grandfather clause as part of the recent same-sex "equal treatment" legislation...

...Usually when introducing laws affecting Centrelink payments the government includes a 'grandfather' clause to ensure lesbians who are already established under the old laws are not adversely affected, particularly Age Pensioners and those over 55 who are recipients of Disability Support Pensions and the Carer's Payment. There is no explanation as to why this has not happened with these new laws. The rules have been changed after granting entitlements for income support: this is blatantly unfair.

"The new legislation will create hardship to a great many lesbians who have planned their living, financial, social and retirement arrangements – including mortgages – on the basis of two financially independent beings. The changes have come too suddenly for lesbians to plan or rearrange their long-term finances and housing," said activist, Sand Hall. "We have serious concerns about the health and welfare of those on existing benefits who are deemed

to be in a de facto relationship and who now will have their payments removed or reduced,” says Ms Hall.

COAL members plan a Parade entry in the upcoming Sydney Gay and Lesbian Mardi Gras, to highlight the detrimental effect of the new laws. Older lesbians have experienced discrimination that has negatively impacted their career, earning capacity and savings for retirement. Some will be left to live on a third of their previous income, some less. “Lesbians’ social position and financial security is strongly influenced by both gender and sexual orientation. Generally, as women, we earn less, have fewer years in the paid work force, little or no superannuation and have spent years caring for children and others in need. We have not been exposed to the notion of becoming financially responsible for our girlfriends and partners as a part of our relationship structure. For many of us it is like being forced into a marriage-like arrangement, something we have actively worked against for years,” says Ms Hall.

COAL has asked to meet with both the Attorney-General and the Prime Minister to discuss the dire

position some lesbians will face after 1 July this year when the new payment system begins...

## **2 February 2009**

*Letters to the Editor, Sydney Star Observer, Kendall Lovett*

As Aaron and Joseph, from outerspace evidently, manage to get their letters published on your website as well as in the SSO (29.1.09) and Melbourne's Southern Star, it's to be hoped that someone tells them that the federal same-sex relationships legislation is already law and not under threat from a grandfather.

However, same-sex couples, where one or both are on NewStart, Austudy, Family Tax Benefit, Single Mother benefits or Disability Support pension, will be financially affected negatively after July 1st, not just Age pensioners.

So if you lose your job, and that's on the cards, and turn up at Centrelink after July 1st this year thinking you will get the dole, you had better be prepared to

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face some very intrusive scrutiny of the nature of your household, yours and your partner's financial arrangements, if a sexual relationship exists, his salary and then be told no dole, your partner earns too much.

A grandfather clause in the Social Security Act would not affect the other same-sex legislature. We think it could be done now by regulation. In the past a grandfather was given to hetero pensioners in the system but withheld from same-sex couples in the recent change to legislation. If it had it would have saved a lot of financial heartache and been more truly an equality.

**16 February 2009**

*To attorney General Robert McClelland from: Kendall Lovett,*

This is not the first letter I have written to you recently regarding the equality issue for same-sex couples. It probably won't be the last but I certainly hope you not only read this one but take it very much to heart and respond as a matter of urgency.

On Thursday night last, the editor of Centrelink News for Seniors headed a panel on Joy Radio to talk about the effects of the recent legislation on equality for lesbians and gay men and others in same- sex relationships and particularly those who are Centrelink clients. The editor is also General Manager of Centrelink.

You were also interviewed a few weeks ago on the same Joy Radio programme before racing off to the opening night of Milk. In your interview you said: "When the reforms in this area begin in July, it will have been 15 months since the government announced its intention to end discrimination against same-sex couples." You also stated that the Government did not hide the fact that there would be winners and losers from the implementation of this legislation. That statement is false because the Government's most powerful bureaucratic body has kept the information hidden from its clients.

On Thursday night last, Centrelink's spokesperson Hank Jongen informed the studio audience and the countless listeners to the programme that the Autumn issue of News for Seniors (March 2009) would carry

the information to its clients -in particular age pensioners, disability support pensioners and their carers-that those in a same-sex relationship would be required to declare their same- sex relationship by 1st July 2009 or face the consequences. After 1st July they will be assessed financially as an interdependent couple on a lower rate than their current pension.

The Autumn issue of the publication is not 15 months from implementation of the legislation, it's only 3 months. So, Centrelink withheld the information totally -from those you termed the losers!

Don't tell me that they should have known because of the government's announcements elsewhere. Most seniors don't see lesbian and gay publications and how many radio or television programmes or even the print media carry information like that 15 months before it happens. We are talking about lesbians and gay men who grew up in the 30s and 40s, people whose same-sex relationships were unlawful and actively prohibited for another 50 or more years.

Pensioners rely on the Centrelink quarterly to tell them about such changes. Hank's publication has not

mentioned anything about lesbian and gay issues, let alone this relevant issue, in any previous issue in the past two years, if ever.

If you and the government aren't prepared to provide a grandfather clause then draft a regulation dispensing with the out of date interdependency couple rate altogether and treat all married, unmarried and same-sex relationships as individual people on the single rate. In the long run that will save Centrelink and the ATO a huge amount of invasive, costly investigatory and interrogation work which must cost the taxpayer an enormous amount of money annually.

## **19 February 2009**

*To Minister Martin Ferguson from Mannie De Saxe*

You will be aware of the recent legislative changes, passed in 2008, providing changes to superannuation, health funds, hospital arrangements and other aspects of partnerships being extended to same-sex relationships as found by the inquiry by the Human Rights and Equal Opportunity Commission's (HREOC)

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investigations into then-existing legislation. HREOC found about 58 pieces of legislation requiring change, and the government found at least 100 pieces of legislation showing inequality between the hetero and homosexual communities.

There has been growing concern amongst ageing and aged gay, lesbian, transgender and HIV/AIDS (GLTH) communities that these changes will have serious impacts on people whose lives have been marginalized, kept in the closet due to society's homophobia, abused – in places like nursing homes controlled by religious institutions – and treated as non-citizens in terms of human rights extended to, and taken for granted by, the heterosexual members of our communities.

Over a period of the last 15 years, a period covering the previous Labor government and the last Coalition government, there have always been “grandfather clauses” covering major changes to legislation, such as the change of women's pension entitlements from the age of 60 to the age of 65, and these changes

factored in the impacts on the people involved and provided “grandfather clauses” to cushion the impact of the changes.

The Batman electoral area evidently includes large numbers of members of the GLTH communities, as reflected over the years by statistical analyses and other data collected by the communities involved.

This would seem to indicate that many members of your electoral area, Batman, will be seriously financially disadvantaged by the non-inclusion of a “grandfather clause” to cushion the changes.

The Attorney-General has stated dogmatically that he will not consider the insertion of such a clause and we are not quite sure of his reasoning in this matter and query the advice he has received from bodies such as Centrelink and other ministerial advisory groups.

We urge you to impress upon the government the need for a “grandfather clause” to allow old, frail, possibly sick, possibly – probably – closeted members of the Gay, Lesbian, Transgender and HIV/AIDS community members to live their last years not being hassled by

Centrelink about their sex lives and other intrusions into the privacy situations forced on them by uncaring and discriminatory practices of governments from all sides of politics and by religious institutions which to this day have exemptions from various anti-discrimination legislations of state and federal governments.

Changes are to come into effect on 1 July 2009, and the impact on many lives will change their health and well-being for many years to come.

We urge you to press the relevant ministers and indeed the government as a whole to ensure the impact of the legislative changes will be cushioned by the inclusion of a “GRANDFATHER CLAUSE” before 1 July 2009.

## **4 February 2009**

*PM Martin Ferguson's response to Mannie De Saxe*

...As you are aware, the Government's same-sex reform package passed through Parliament on 26 and 27 November 2008. The reforms amend 84

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Commonwealth laws to remove discrimination against same-sex couples and their families in areas such as taxation, superannuation, social security, health, aged care, veterans' entitlements, workers' compensation, employment entitlements, immigration, child support and family law. The reforms will come into effect progressively over the coming months, with all reforms being implemented by mid 2009.

These reforms honour the Rudd Labor Government's election commitment to implement the recommendations of the Human Rights Equal Opportunities Commission in its Same Sex: Same Entitlements report. HREOC consulted extensively with the gay and lesbian community on the issue of whether same-sex couples should be recognised across all Federal laws. Almost all couples who gave evidence to the inquiry suggested they would give up the advantages they currently enjoy under social security laws if they were treated equally throughout all federal laws. Removing discrimination will result in some same-sex couples receiving benefits they could not previously access. Some examples include reversionary death benefits from Commonwealth government (defined benefit) superannuation

schemes, social security bereavement payments, independent rate of youth allowance, access to the child support scheme, employment entitlements, workers' compensation, Medicare Safety Net and Pharmaceutical Benefits Scheme Safety Net entitlements, and taxation benefits.

Equal treatment may also result in some same-sex couples having the benefits they currently receive reduced to be equal to the benefits received by opposite-sex couples in the same circumstances. For instance, members of a same-sex couple will be paid the partnered rate of social security and family assistance and be subject to the income and assets tests that apply to couples. The different rates of payment and income and assets limits available to partnered and single people recognise the ability of couples to gain financial advantage by pooling their resources and sharing living costs.

Equity in treatment of all people under the law was the foundation of the Government's reforms. Grandfathering of benefits would require the continuation of differential treatment on the basis of sexuality in Commonwealth legislation. In this way, it

would undermine the purpose of the Government's reforms.

Grandfathering would also result in differential treatment between same-sex couples in the same circumstances depending on whether they met the 'grandfather' clause. As a consequence, some same-sex couples would be assessed as a couple while other same-sex couples would be assessed as single. As such, grandfathering would allow same-sex couples who are currently receiving payments at the single rate to continue to receive the single rate despite declaring to Centrelink that they are a member of a couple.

Contrary to what has been reported there have been significant changes to social security laws passed in the last 15 years that have not included a 'grandfather' clause. Where grandfathering has occurred it allowed people to retain their qualification for a payment but has not exempted them from the ongoing means testing of that payment. However, grandfathering of the same-sex reforms would result in certain same-sex couples being exempt from the means testing that would apply to other-opposite-sex

and same-sex couples. Further, unlike previous reforms, this impacts on all social security and health programs. To isolate one aspect of the changes for grandfathering would result in inconsistencies in the recognition of a same-sex relationship in other social security and health programs.

Given the potential of the reforms to reduce the benefits that some same-sex couples currently receive the Government allowed for a reasonable lead-in time to the changes to social security and family assistance. The Government announced its intention to remove same-sex discrimination, including in the area of social security, on 30 April 2008. The Same-Sex Relationships (Equal Treatment in Commonwealth Laws - General Law Reform) Bill 2008 itself was tabled on 4 September 2008. The Government has also staggered commencement dates for the reforms to provide a reasonable period for individuals and couples to adjust to their new financial circumstances. Reforms dealing with social security, family assistance and income tax legislation will commence on 1 July 2009.

Relevant agencies are continuing to consult with Lesbian, Gay, Bisexual, Transgender and Intersex community and welfare representatives to ensure that the concerns of affected community members are carefully considered in the implementation stage. Responsible agencies are implementing specific communication strategies in order to assist their client groups.

In relation to the changes to social security, I have been advised that current Centrelink customers and new claimants will have a three month period from 30 March 2009 during which they can declare to Centrelink that they are a member of a same-sex couple and discuss the impact of the changes on payments and services they receive. Centrelink has also established a dedicated hotline for customers affected by the reforms to discuss their particular situation with a Centrelink Service Advisor. The hotline number is 13 62 80. There are also provisions available in social security law to assist a member of a couple in exceptional circumstances. Whether a member of a same-sex couple is eligible to the relief provided by these provisions will depend on that person's individual circumstances.



I trust that this information will be of assistance.

**24 February 2009**

*Aids Council Of New South Wales Media Release  
Health And Welfare Orgs Seek Pension Protection For  
Elderly Same-Sex Couples*

A broad coalition of social welfare agencies and community health organisations is calling on the Federal Government to give older same-sex couples extra time and resources to adjust to new legislation affecting their Centrelink payments.

The coalition, which includes the National LGBT Health Alliance, the Gay and Lesbian Rights Lobby (GLRL), the Welfare Rights Centre, People With Disability Australia, Positive Life NSW, the Australian Federation of AIDS Organisations and ACON, says it welcomes recent changes to Commonwealth legislation to end discrimination against gay men and lesbians, including same-sex couples, across a wide range of federal areas. However, the coalition says the changes, which come into effect on July 1, will disadvantage elderly same-sex couples by cutting their pensions

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without giving them a reasonable opportunity to adjust to the new circumstances.

GLRL Co-convenor Emily Gray says elderly same-sex couples have been denied access to a variety of entitlements during the course of their working life and have therefore planned for retirement from a disadvantaged financial position. “Now retired, they’ll receive none or little of the benefits of these reforms, while experiencing significant financial burden,” Ms Gray says. “Also of concern is that Centrelink’s process of assessing whether someone is a member of a couple will be unavoidably distressing for many older same-sex couples.”

ACON CEO Stevie Clayton says same-sex couples deserve not only the rights and responsibilities available to opposite-sex couples, but also the time and resources available to other couples to adjust to major social welfare reform. “What we’re proposing is a series of savings provisions and transitional arrangements similar to those that have accompanied all previous major social security reforms,” Ms Clayton says. “We’re not asking for anything that hasn’t been provided to others in the past and given this whole

process is about ending discrimination, it would be unfortunate if the Government elected not to offer the same protection to our community as has been afforded to others.”

The proposed provisions include:

To protect those currently on the age pension, all people in a same-sex relationship receiving the age pension at 1 July 2009 should, for the purposes of the age pension, continue to be treated as if they are single for as long as they remain on that pension

To protect people aged over 55 on other types of pensions, people in a same-sex relationship over the age of 55 receiving other pensions at 1 July 2009 should continue, for the purposes of those pensions, to be treated as if they are not a member of a couple for as long as they remain on those pensions

A grace period of 12 months for all people on pensions and allowances in same-sex relationships making an effective implementation start date of 1 July 2010

A two year extension on concession cards and the retention of the single income test for the low income card

Comprehensive education campaign delivered by community organisations

Independent advocacy to same-sex couples about the social security reforms

Adequate training for Centrelink staff

Health Alliance spokesperson Gabi Rosenstreich says the coalition is expecting a range of other welfare agencies and community organisations to join the coalition before targeting Federal politicians with a comprehensive lobbying campaign over the next few weeks.

“What we’re proposing is a simple and fairer solution for older same-sex couples who are being unnecessarily penalised and distressed over these changes.”and distressed over these changes.”

**25 February 2009**

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*Letter to Attorney General McClelland MP, CC Hon Kevin Rudd MP, Kelvin Thomson MP, Jenny Macklin MP, Bob Brown Senator, Hon J. J. Hogg, Hon A. B. Ferguson, Hon Malcolm Turnbull, Lesbian & Gay Solidarity (Melbourne), Professor John McMillan, Graeme Innes, Paul Ramadge, LESBIAN AND GAY SOLIDARITY, Gay and Lesbian Rights Lobby, COAL, WELVIC, MATRIX Guild from Fern Smith*

The Same-Sex Relationships Act 2008 was intended to provide fair treatment for people who are subjected to discrimination. The Same-Sex Relationships Act 2008 does not include a "grandfather" or "sunset" clause for those unduly affected.

The Act by the governments own admission is oppressive for same-sex couples to implement their duty; it is punitive, includes an expense and emotionally affects current same-sex couples. For "... the reforms may also impose burdens on some same-sex couples or reduce certain benefits they currently receive..." Overview of the Australian Government's Same-Sex Law Reforms Attorney General Official website 25 February 2009.

Same-Sex Relationships Act 2008 is huge; the changes will in time improve the equality same-sex couples. The government will "impose burdens" and "reduce certain benefits" particularly to same-sex couples currently in relationships that are ill (disability), elderly (pensioners), parents (single mothers) who have not considered themselves financially responsible for the other partner when entering the relationship. Therefore in the spirit of the intention of the Act I have included a set of recommendations.

#### Recommendations:

Include a "grandfather" or "sunset" clause for existing same-sex couples to;

- encourage registering as a same-sex couple in states that have a registry and encourage other states and territory to include a same-sex registry
- to develop and implement across government education program of the changes to the law for same sex couples to all states and territories, hospitals, medical centers, work places, schools etc.
- to make de-facto relationships legally the same all states and territories

- to make de-facto relationships equal to "marriage" legally
- Sperm donation and IVF to be the same for all persons federally whether they be single, de-facto, married or same sex couple
- to develop and implement a federal Charter of Rights

"A charter of rights will improve democracy in Australia. ... Rather, it will require Parliament to consider human rights standards when making laws, and to justify any decision to depart from those standards.

... we cannot always trust our Parliament to pay sufficient regard to the protection of the human rights of every one in Australia. A charter of rights will help prevent human rights breaches by ensuring politicians turn their minds to the human rights implications of laws they are framing." Catherine Branson, QC, President of the Australian Human Rights Commission Jan.2009

**30 March 2009**

*To Senator Joe Ludwig from Mannie De Saxe, Member of Lesbian and Gay Solidarity, Melbourne*

Re: Media Release: Government launches 'Couples are Couples' same sex information campaign

There are certain matters which need to be addressed by the Federal Government's same-sex legislation in relation to Centrelink's new guidelines:

- 1) Same-sex relationships have no legal recognition by the Federal government, which means discrimination, inequality, homophobia and other abuses in an ongoing pattern.
- 2) The Attorney General and you have persisted in stating, ad nauseam, that the gay, lesbian, transgender and HIV/AIDS (GLTH) communities have had 15 months to adjust to the new legislation and grandfather clauses are therefore not warranted. This is patently not the case.
- 3) A minimum of publicity in the media has meant that there are probably hundreds, if not thousands of these communities who are unaware of the changes



and/or the effects they will have on them, because the Federal government has failed to publicise the changes in the media.

4) From 30 March 2009 to 1 July 2009 is three months, not 15 months as you are all claiming, and Centrelink has even now, by 29 March 2009, not sent News for Seniors to Seniors informing of the changes – and in fact from 15 months ago to the present, there has not been one word uttered in that paper about GLTH communities and possible changes mooted by federal legislation.

5) It should be pointed out that the Australian community is an ageing community, and that includes members of the GLTH communities as well. You will be aware of the inequities in pensions to couples where a couple receives pension benefits which are NOT equal to two single pensions. We now live in the 21st century, and it is many years since women are supposed to have achieved wage equality with men (which of course in practice is very often still not the case.) It is therefore ludicrous that two pensioners in a couple, whether they be heterosexual or homosexual – or whatever the genders of the partners - do not each

receive single pensions, considering how costs and expenditures have risen over the years to the extent that many, if not most, households need two incomes in order to survive in the modern world.

6) To then refuse a grandfather clause to same-sex couples who have very often been forced to remain closeted, who have been abused, and treated with homophobia and discrimination merely perpetuates this discrimination. Your laws of the past forced us to hide our relationships and now you think equating us with de factos will suddenly get rid of religious bigotry and hate!

7) As your government has failed to investigate the numbers who will be affected by the legislative changes, costs to government will be minimal – all pensioners pay tax – the gst ensures that – but those who will be most affected by the changes will be people in their 70s, 80s and older, who are amongst the most vulnerable members of the community. The intrinsic homophobia in the federal parliament ensures that these people will be so seriously affected that same-sex partners – when outed by your government by whatever means you and Centrelink

employ – will stand to lose up to \$100 each per fortnight, reducing their spending ability and for those who have to pay rent for accommodation will now become the new poor below the breadline. This is what you are setting out to achieve.

8) Until such time as there is legal recognition in the form of some sort of federal registration of partnerships, it is unclear whether your legislative changes are, in fact legal, and may well be able to be challenged. Who defines what is a “couple” and in fact what actually is the meaning of “couple” in the context of the government’s legislative changes?

9) Finally, it is worth noting that, although many of us are already in our 80s and are therefore able to be defined as geriatrics, we are not all suffering from Alzheimer’s disease, are not demented and still have the ability to vote. A federal election is due in approximately 18 months time, and we will vote.

The proposed changes have been mishandled from the start, consultations with the GLTH communities have been limited and restricted, and many voices have gone unheard. In fact, Lesbian and Gay Solidarity was

never consulted about the de facto status and when we phoned the number in your media release for the community information kit, the staffer didn't know what we wanted. So how good is your staff education for telephone operators? The GLTH communities have suffered from state and federal governments and their homophobia for the last 100 years, and the forthcoming changes will not bring equality. When we attain equality in every aspect of the law, we will no longer have grounds for complaint.

In the meantime, homophobic comments and actions by federal parliamentarians such as Gillard and Roxon go unchallenged by the prime minister and his government which has staunch allies in the Coalition.

It would be a good idea for all parliamentarians to see a new US documentary on the sorts of discriminations which will shortly be entrenched. The documentary is called simply "For my wife."

A letter in the Sunday Age on 29 March 2009 about Centerlink concludes ". . . . never mentioned the humiliating experience of dealing with Centrelink. Even the design of Centrelink offices, where everyone

in the long queues can hear about your personal life, only seems to shame the unemployed.” Imagine the situation of 70, 80, 90-year-old age and/or disability pensioners, possibly also hard of hearing and possibly also closeted for a lifetime, standing in such a queue at a Centrelink office and having to disclose the most intimate details of their lives. Is there no end to the humiliations to be heaped upon some of the most vulnerable people in the country?

**1 April 2009**

*To Federal Ministers: Senator Joe Ludwig and MHR Jenny Macklin from Kendall Lovett, Member of Lesbian and Gay Solidarity (Melbourne).*

The Centrelink quarter page advertisement in The Age yesterday (31 March 2009) is an appalling waste of space.

Firstly, dentists advise one to keep a toothbrush hygienically separate from those of other household members. Your illustrations of two toothbrushes in a tumbler for couples together, who are gay/straight, is supposed to indicate that couples are couples and

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there's no difference but it's not the truth. Your poor example suggests that same-sex de facto couples are the same as married couples and that's a lie because the same-sex equality legislation doesn't say that at all.

Secondly, the illustrations could have been half the size and still carried the same impact. Centrelink's existing clients need to be given more information in such an advertisement and extra space would have made it possible.

Thirdly, everyone needs to know how this change will affect them financially not get in a telephone queue or in a long Centrelink office queue where everyone else can hear about your personal affairs --hardly confidential.

Fourthly, that tiny strip of orange coloured type is hardly legible to 70 or 80 something age pensioners to telephone the 13 hundred number about the reducing effect of the legislative changes on their pension if they are in a same-sex relationship. The Centrelink general

manager told Melbourne's Joy Radio on February 12 that Centrelink's News for Seniors March edition would provide full information about the same-sex changes for existing clients. That hasn't happened so your insistence that we have been given 15 months notice of the legislation is ridiculous. It is now getting to be even less than 3 months to July 1st.

Lastly, stop pretending it's not a new discrimination against same-sex couples not to provide a grandfather clause, so find a way to save face at this late stage and provide a genuine grandfather clause for age pensioners, over 55s on disability and their carers.

**7 April 2009**

*To Prime Minister Kevin Rudd, Attorney General Robert McClelland,*

Minister for Families, Housing, Community Services & Indigenous Affairs Jenny Macklin, Minister for Resources and Energy, Minister for Tourism Martin Ferguson, Minister for Human Services Senator Joe Ludwig, Leader of the Australian Greens Senator Bob Brown, Leader of the Opposition Malcolm Turnbull,

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Australian Senior (Victoria), Ausqueer, GLBTI Ageing Group, OZ Homohist Group, MCV, Star Observer and Dr Jo Harrison from Mannie De Saxe

ELDER ABUSE Federal Government attacks some of the most vulnerable members of the community

Elder abuse has been well documented in recent years, covering areas such as abuse in nursing homes, abuse by carers, abuse by partners such as domestic violence, abuse by institutions and abuse by those responsible for management of care for the elderly, frail, sick, disabled.

Elder abuse of the gay, lesbian, transgender and HIV/AIDS (GLTH) communities has also started to be documented in recent years, and horror reports by researchers such as Dr Jo Harrison, researcher of gay and lesbian gerontology, have uncovered instances of abuse to which those in local government and other governmental levels have turned blind eyes in many instances, or in fact have been guilty of inflicting themselves.



Now, in 2009, the Federal Government is about to inflict a new method of elder abuse on the GLTH communities, particularly those least able to defend themselves against this new form of discrimination, homophobia and other forms of abuse by targeting same-sex aged, disabled and other disadvantaged most vulnerable people.

This new abuse inflicts outing, public declarations, income reduction and other disadvantages on these groups because the Government refuses to provide a grandfather clause in the legislation which provides improvements in conditions for same-sex partnerships with changes to nearly 100 pieces of legislation.

In effect, this elder abuse means inflicting hardship on people who have lived their lives with the hardships imposed by the homophobic world in which they have lived, a world which has denied them the same human rights which heterosexual members of the community have taken for granted as their right in our society.

Because so many have remained living as homosexuals in secret, the psychological and physical impacts as well as the other impacts of outing them

are too numerous to contemplate. These are people who have had to try to finance their plans for old age in ways which would be foreign to heterosexuals, and who in many instances will now have their support structures torn away from them because of the new legislation.

This is elder abuse writ large and for which the government will be held responsible for the awful situations inflicted on those least able to protect themselves, all this at a time of financial crisis in local and global economies which will affect us all.

All these hardships will be avoided by the inclusion of a grandfather clause to assist some of the most disadvantaged of our elderly GLTH population – those already in their 70s, 80s and older.

You wouldn't do this to your own families, would you?

**22 April 2009**

QUEER TOOTHBRUSHES

We (Kendall Lovett, Lesbian & Gay Solidarity) wrote to Minister Ludwig after the toothbrush advertisement appeared in the print media on March 31 pointing out it was a complete waste of space because it gave existing Centrelink clients no useful information.

In fact it gave them some misinformation. It implied that couples are couples and there's no difference between same-sex ones and married ones. That's not what the legislation says. Centrelink clients need to know that if they are in a same-sex relationship they are likely to be changed over from a single pension rate to a married couple's outdated rate when each gets a much lower rate than a single person from July 1.

On Melbourne's JOY Radio Centrelink's general manager told listeners on February 12 that Centrelink's publication, News for Seniors March edition, would explain the changes. It's a quarterly publication mailed to clients.

That issue has never arrived so why isn't the information in these expensive and useless advertisements?

If it goes to all aged pensioners they must know who they have on single pensions in the system so surely they could have used the money they are spending on these ridiculously expensive non-informative advertisements to send a letter with full details to single aged and disability pensioners detailing the situation exactly for same-sex couples.

Federal ministers should have fought for a grandfather clause or an alternative. Dump the outdated 19th century interdependent couple status rate altogether and treat all couples the same as singles.

FOOTNOTE: Centrelink's long-awaited News for Seniors Autumn 2009 ISSUE 77 finally arrived on 22 April 2009, and 1 July 2009 is approximately 10 weeks off - not exactly 15 months as the federal government keeps on lying to everybody!

It is also worth noting that the media campaign also promised by this lying government hasn't materialised, and for those closeted Gay, Lesbian, Transgender, HIV/AIDS (GLTH) people, the information just isn't reaching them, and if that is not ELDER ABUSE, then what is??

**6 May 2009**

*To Hon Jenny Macklin, cc Attorney-General Robert McClelland*

*From: Kendall Lovett,*

In view of your joint media release with the Attorney-General Robert McClelland, issued on Tuesday, 5 May 2009, in which you say you are providing \$450,000 for a community education campaign to inform same-sex couples about implications of recent reforms to legislation, we remain sceptical of its effectiveness. Certainly in relation to those Centrelink clients affected by the same-sex changes, it is doubtful that the impact of the reclassification of their pensions can be eased in the short space of time to the July 1st deadline.

Even if one takes into account the new informative website and the National Welfare Rights Network's new legal advice on the same-sex reforms both yet to take effect, the truth of the matter is that the first official information on the changes by Centrelink to its clients was in the very late April issue of its News for Seniors publication. The delay is indeed unfair to Centrelink clients, the major losers in the same-sex reforms --not the winners.

Centrelink staff, even if they do further "sensitivity" training, have nothing practical to offer that would be a help to individuals suddenly on a reduced pension after being forced to declare that they are in a same-sex relationship. An orientation period before the opposite-sex couple rate cuts in ought to have been available to those existing same-sex clients who needed it. However, if that was to occur, undoubtedly the difference between the higher and the lower rates for the orientation period would have to be paid back to Centrelink. Not exactly compassionate or sensitive, we think, to pensioners who have been reassuring support for each other in retirement. Of course if the opposite-sex couple rate is dramatically increased in next week's budget that may be a help.

As a matter of interest, does the quarterly News for Seniors get sent to any of Centrelink's clients in convents and seminaries where retired nuns and retired priests see out their declining years? There must be many retirees in those Catholic establishments receiving pensions. Some of these people may well be in same-sex relationships. They would be unlikely to know of the same-sex reforms, let alone the July 1st outing day deadline, unless they receive the Centrelink quarterly publication. They do not see lesbian and gay newspapers to be aware of the debate in that quarter, we would think. Of course, the Government may consider them exempt from the same-sex changes like it does the religious tax-free institutions in which they have served for most of their lives.

**11 May 2009**

From Ryan Batchelor Senior Adviser of Jenny Macklin MP,

To: Mannie De Saxe

...During the 2007 election campaign the Prime Minister, the Hon Kevin Rudd MP, announced that legal discrimination against same-sex couples should be removed, including from social security law. The Government announced its intention to remove same sex discrimination, including in the area of social security, on 30 April 2008. The Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008 was subsequently tabled on 4 September 2008. The Government has staggered the commencement dates for the reforms to provide a period for individuals and couples to adjust to their new financial circumstances.

From December 2008, following the passage through Parliament of the Government's same-sex law reform package, Centrelink established a dedicated enquiry line for customers who may be affected by the same sex reform changes to discuss the changes and how their payments may be affected. The enquiry line number was publicised through a media release, and Centrelink has continued to provide information about the changes through the print media and also through participation in radio interviews, discussing what the changes mean for Centrelink customers. The



Centrelink enquiry line number is 13 6280.

Customers can choose to provide their details or enquire anonymously. Further information is also on the Centrelink website at:

[www.centrelink.gov.au/intcri\]et/inten\]ct.nsf/individii als/same\\_sex.htm](http://www.centrelink.gov.au/intcri]et/inten]ct.nsf/individii als/same_sex.htm). In February 2009 community information kits were issued by Centrelink to various community organisations on Centrelink's extensive community mailing list system. These kits included fact sheets and information relevant to the changes for Centrelink customers.

The Australian Government has agreed to a funding package to complement Centrelink's extensive information campaign. The package includes funding for the National Welfare Rights Network and the development of a community education and advertising program to be developed and managed by the Lesbian Gay Bisexual Transgender (LGBT) Health Alliance in partnership with a number of community-based organisations.

Removing differential treatment will result in some same sex couples receiving benefits previously not accessible. Some examples include partner concession

card benefits, social security bereavement payments if a partner dies, access to the Child Support Scheme, exemption of the family home from the assets test when one partner enters nursing home care and the other partner continues to reside there, recognition as independent for Youth Allowance if in a same sex relationship for over 12 months, Widow Allowance, War Widow or widowers pension, reversionary death benefits from Commonwealth government (defined benefit) superannuation schemes, access to the Medicare Safety Net and Pharmaceutical Benefits Scheme safety nets as a family, and tax concessions.

Equal treatment will result in some same sex couples having the benefits they currently receive reduced to be equal to the benefits received by opposite-sex couples in the same circumstances. For instance, members of a same sex couple will be paid the partnered rate of social security and family assistance and be subject to the income and assets tests that apply to couples. The different rates of payment and income and assets limits available to partnered and single people recognise the ability of couples to gain financial advantage by pooling their resources and sharing living costs.

Equity in treatment of all people under the law was the foundation of the Government's reforms. Grandfathering of benefits would require the continuation of differential treatment in Commonwealth legislation on the basis of sexuality. In this way, grandfathering would undermine the purpose of the Government's reforms.

Grandfathering would also result in differential treatment between same-sex couples in the same circumstances depending on whether they met the 'grandfather' clause. As a consequence, some same sex couples would be assessed as a couple while other same-sex couples would be assessed as single.

In relation to the changes to social security and family assistance, current Ccentrelink customers and new claimants will have a three-month period from 30 March 2009 during which they can voluntarily declare to Ccentrelink that they are in a same-sex de facto relationship and discuss the likely impact of the changes on payments and services they receive. From 1 July 2009 customers must advise Ccentrelink if they are in a same-sex de facto relationship.

The Centrelink Financial Information Service (FIS) can also help people prepare for any financial impact of the reforms. FIS officers can help people to understand their own financial affairs and the options available to make more informed financial decisions and plan for the future. FIS is a free service, and an appointment can be arranged by calling 13 2300.

Centrelink social workers are also available to provide counselling, support and referral services as needed. People who are already experiencing personal financial difficulties, or are concerned that the changes might create personal financial difficulties for them, or their partner, may want to seek advice from an accredited community-based financial counsellor. Financial counsellors provide free, independent advice and assistance. People can contact a financial counselling organisation direct or can ask a Centrelink social worker to arrange an appointment. An appointment to see a social worker can be made by calling Centrelink on 13 1021. For details of organisations that provide financial counselling services visit the FaHCSIA website: [www.fahcsia.gov.au](http://www.fahcsia.gov.au).

Centrelink understands that it may be difficult for customers to declare their relationships and they will be training their staff specifically in regard to the same sex law reforms.

The training will include dealing with sensitivities felt by this particular customer group. Centrelink has extensive measures in place to protect people's confidentiality. Centrelink is bound by its legal obligation to comply with the Privacy Act 1988 as well as to abide by the numerous confidentiality provisions contained in the legislation that they administer. Acts which have such confidentiality provisions are the Social Security (Administration) Act 1999, A New Tax System (Family Assistance) (Administration) Act 1999 and the Student Assistance Act 1973. The confidentiality provisions govern access to, use and disclosure of customer information. There are severe penalties for employees who breach the confidentiality provisions. These include penalties under various legislation (including the Crimes Act 1914) of up to two years imprisonment; facing sanctions under the Public Service Act 1999 which attract disciplinary measures such as fines, demotions or dismissal; and

contracted employees may have their contracts terminated.

Centrelink customers who have fears regarding their privacy may choose alternative arrangements with Centrelink which could include completing their business at any office in person, communication by phone or using the mail system.

**18 May 2009**

*Mannie De Saxe*

## RUDD GOVERNMENT'S DOUBLE STANDARDS

The Rudd Government's 2009 budget put forward the proposal to change retirement age from 65 to 67. What follows is an analysis of condescension, discrimination, homophobia, double standards and hypocrisy, to name some of the issues, from this government and its responses to the introduction of same-sex legislation in December 2008.

Dishonesty in the advertisement stating that couples are couples whether they are gay or straight is not

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only dishonest, it is an outright lie, and the government knows it too. It reflects the fact that the Advertising Standards organization, as operated in Australia, is a toothless tiger. The lie is that straight couples are able to register their relationships while gay couples are not – this is discrimination and homophobia!

The first item to examine in this litany of deceit is the matter of how the government has approached the proposed change of retirement age from 65 to 67.

An article in The Age newspaper on Wednesday 13 May 2009 reports that “. . . the Government will lift the pension age from 65 to 67 within 15 years and claw back more money faster from future pensioners who earn other income.” “Pension age to be lifted from 65 from 2017, rising by six months every two years, until 67 in 2023.”

“To start in September (2009), the increase will be worth \$32.49 a week for singles (pensioners) and \$10.14 per couple.”

The pension age increase is, in effect, grandfathered, meaning that between now and 2017, a period of 8 years, people who will become pensioners at that time will have been given 8 years' notice of changes to occur.

Contrast this with the situation for the gay, lesbian, transgender and HIV/AIDS (GLTH) communities who have not only been given only 8 MONTHS' notice of dramatic changes to financial circumstances in their lives after a lifetime of having known they were discriminated against but were subject to ongoing governmental homophobia, by virtue of the fact that many, now in their 70s, 80s and older, will be "outed" by an irresponsible and reckless government who care nothing for these communities. The laws were promulgated in December 2008, and are due to come into effect on 1 July 2009, with the government agency Centrelink being able to pry into the private lives of some of the most vulnerable members of our society in order to find out whether they are singles or couples

The most dishonest part of the government's "couples are couples" advertisement is the fact that straight

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couples are able to register their relationships with civil or religious marriage rites, whereas GLTH couples are denied this basic human right and therefore show the government's hypocrisy and lies by stating that "couples are couples".

The next part of this behaviour is the statement by government that the same-sex legislative changes will be promoted through the media on a regular basis from December 2008 to July 2009. So far the straight media have been very silent on the issue other than the false and misleading advertisement with "gay and straight toothbrushes" which is also as demeaning as it is false.

In a letter written on 11 May 2009 from the office of the Hon. Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, the following is the second paragraph:

"During the 2007 election campaign the Prime Minister, the Hon Kevin Rudd MP, announced that legal discrimination against same-sex couples should be removed, including from social security law. The Government announced its intention to remove same-

sex discrimination, including in the area of social security, on 30 April 2008. The Same-Sex Relationships (Equal Treatment in Commonwealth Laws – General Law Reform) Bill 2008 was subsequently tabled on 4 September 2008. The Government has staggered the commencement dates for the reforms to provide a period for individuals and couples to adjust to their new financial circumstances”.

So, 8 months is considered a “period for individuals and couples to adjust to their new financial circumstances” after a lifetime of discrimination and restrictions on financial arrangements for people in same-sex relationships, but 8 years is considered a reasonable time for working people to make arrangements for their retirement years in 2017.

This is homophobia writ large – not surprising considering other actions by this government to prevent equality by every means available by stating in the strongest possible terms that there will be no registration of same-sex couples federally, thus ensuring inequality remains entrenched, thus contradicting Rudd’s statement that “legal

discrimination against same-sex couples should be removed, including from social security law.”

Considering that the government has no idea whatever of the numbers of GLTH couples there are in the community, how are they able to assess the costs to government of the changes about to take place in 6 weeks' time? This is their method of ruining the lives of countless old and vulnerable people who know very little of what is happening with legislative changes and who will be in great difficulties when Centrelink starts prying into their lives.

No members of this government have publicly addressed this issue in any way and have refused to consider the grandfathering that has been requested of them.

Homophobia and hypocrisy will continue to dog the elderly, frail, disabled and impoverished in the GLTH communities in the days, weeks, months and years to come.

This government should be ashamed of the way it has handled these legislative changes.

Many community organisations were not consulted and it is dishonest to say that there were consultations across the board, and the most vulnerable were not consulted at all!

## **18 May 2009**

LET'S BE HONEST! Centrelink could protect its vulnerable lesbian and gay pensioners. Phase-in 'coming out' The federal treasurer plans to phase-in the age increase from 65 to 67 over six years but is denying a fair 'grand-father' exemption deal to pensioners in same-sex relationships

Instead of making it come out by July 1st this year, why can't the Government be even-handed and allow to do it in easy stages? Here's how Centrelink could do it for all its GLBT clients.

Aged 65 to 69: 1 July '09 to 30 June '10;

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## S. O. A. P. Stop Outing Aged Pensioners

The Rudd Government's concessions to Centrelink's Aged and Disability pensioners in same-sex relationships are insulting to gays and lesbians. All their lives these elders have had to wear the stigma of being 2nd class citizens and paid top-rate Income tax without benefits and entitlements enjoyed by different-sex couples.

Even de facto out-of-wed couples haven't had to endure Vilification. Violence, even Murder, Agents Provocateur and Criminal Law! for their lifestyle like lesbians and gay men.

Even now, our governments aren't ready to recognise homophobia or the wrongs they have perpetuated by anti-gay laws for the last 100 years...

**EIGHT YEARS LEAD-IN TIME FOR HETEROS, EIGHT MONTHS LEAD-IN TIME FOR HOMOS, AND THE GOVERNMENT ISN'T HOMOPHOBIC?????**

It seems Lesbian and Gay Solidarity, Melbourne is not the only group showing concerns about the proposed budget 2009 measure which will see the pension age rise from 65 to 67 but only commence in 8 years time – in 2017, according to the government's figures.

Changes to same-sex relationship legislation, passed through parliament in December 2008 will commence in July 2009, allowing 8 months for people who have been discriminated against all their lives for being gay, lesbian, transgender, HIV/AIDS (GLTH) members of the community.

This is not just a case of double standards – the Treasurer and the Prime Minister have uttered all sorts of justifications for the pension age changes to occur later rather than sooner – to allow people to adjust – but have refused to grandfather the legislation concerning elderly and disabled GLTH people, because it will make differentiations in those receiving benefits.

Do you hear the hypocrisy ringing in your ears??

Be sure of one thing – GLTH pensioners still have the vote and know how to mark their papers when they go into the polling booths around the country and many have long memories too!

And to add further to the contempt in which the current government holds GLTH people, the latest Centrelink advertisements for telling us that couples are couples – the blatant lie continues! – now show two sets of towels in place of the toothbrushes!

It is not only crass, it is downright insulting!

We always knew that the ALP was homophobic, but we didn't know how bad they were until this whole episode started in 2008 – and the Rudd government is doing us favours?

We want equality, and equality only has one meaning, unlike in Dr Verwoerd's South Africa where the Bantustans were “separate but equal”! Rudd's Australia perpetuates the Verwoerd myth of “separate but equal”.

**COUPLES ARE COUPLES.**

New laws mean couples have to tell Centrelink about their relationship from 1 July 2009.

Changes to the law mean Centrelink will recognise same-sex relationships from 1 July 2009.

Centrelink customers who are living in a same-sex de facto relationship will be recognised as partnered and assessed in the same way as opposite-sex couples.

If you are a member of a Same-sex couple, you are required by law to advise Centrelink from 1 July 2009, to ensure you receive the correct payment. Because couples are couples.

8 June 2009

*Mannie De Saxe*

## SEXUAL ABUSE OF THE ELDERLY

Sexual abuse is already taking place by the Federal Government before the same-sex relationships Bill reforms, passed by the government in December 2008, come into effect on 1 July 2009.



Elderly, infirm, frail, unemployed, those living with HIV/AIDS members of our communities are about to be legislatively, but illegally, outed by the government because they have to declare any same-sex relationships they are in.

Those failing to declare such relationships, and found to be living as same-sex partners, will be penalized by Centrelink in various ways, because the government has refused to provide a grandfather clause for this legislation, the first of its kind in Australian history. The legislation has not been properly thought through by the government, and they want to get it out of the way as soon as possible before the next election is due in about 18 months time so that they will get the gay vote – so they believe.

However, those numerous community members – not forgetting that so far they have not been identified by any government statistics to show how many couples there are – will be found by various means on Centrelink's database connections, and their private lives will be exposed to the public gaze.

This constitutes sexual abuse of these community members when they are at their most vulnerable and many will be unable to defend their situations. In other words, after lifetimes of discrimination, abuse, homophobia and bullying – just some of the aspects of the lives they have led for the past 40 or more years, when homosexuality was illegal throughout Australia, specifically for gay males, they will now have their sex lives exposed and vilified by the very government which is supposed to be introducing “equalizing” reforms for the gay, lesbian, transgender and HIV/AIDS (GLTH) members of our communities.

It is quite obvious that the government expected a backlash if they introduced the change to pension age from 65 to 67 without a lead-in time, and have stated that that time will be about 8 years before the changes are GRADUALLY introduced. The backlash from the GLTH communities doesn't worry them at all.

Well, it worries us, and we will remember that we are not considered worthy of consideration when it comes to so-called equality legislation.

To compound the illegality of the government's position, it has refused categorically to provide marriage recognition to same-sex relationships, while touting the "fact" that gays and lesbians are now the same sorts of couples as heterosexual couples – another blatant lie. The Centrelink advertisements, first with toothbrushes, then with towels, are demeaning and disgraceful, because the advertisements state "couples are couples" but decline to show two gay or lesbian people on one side in an advertisement and male and female people in the other side of the advertisement.

It is not too late for the government to provide a grandfather clause and provide peace of mind to elderly, frail, disadvantaged, unemployed, ill people in the GLTH communities and show they are able to be humane after all, at considerable savings financially to the whole community in health services, both mental and physical.

**6 June 2009**

*Saffron Howden northern Star, Lismore - Bitter-sweet win for same-sex couple*

## COSTLY VICTORY:

*Deirdre Dowsett and Elaine Fregar, of Lismore, will be worse off financially under new legislation that recognises same-sex couples for Centrelink payments.*

THEY'VE waited decades for official recognition, but now it's finally arrived it leaves them worse off.

In less than a month, same-sex couples will be recognised for the first time by Centrelink, in line with heterosexual partners.

The July 1 changes will affect any gay or lesbian couple that receives social security or family assistance payments.

Lismore couple Elaine Fregar and Deirdre Dowsett, who have spent much of their adult lives facing official and financial discrimination, applaud the recognition.

But in a bitter-sweet irony, overnight it will also make them around \$10,000 a year worse off. "Having been discriminated against by the lack of legislation for so

long, we're being discriminated against basically by mistake,” Ms Dowsett said.

Ms Fregar, who receives government benefits for six months each year and has a Centrelink health care card, will now have her partner's income taken into account and will lose money as a result.

“For people of our age who have mortgages, suddenly this is going to make a huge hole in our incomes,” Ms Dowsett said.

“My income is high enough to mean that Elaine couldn't get Centrelink, but low enough that we will struggle.”

Ms Fregar said when she first began receiving benefits, she registered her status as a de facto, but was told not to because the agency did not acknowledge her relationship.

After a while, she stopped bothering, she said.

The couple, who are both in their 60s, have been together for nine years and know 'dozens' of other

couples who will be affected by the changes in a similar way.

They unsuccessfully lobbied government for a transition period for the changes, as has been applied to the raising of the pension age.

**9 June 2009**

*To: Prime Minister Kevin Rudd, Attorney-General McClelland, & Ministers Human Services (Bowen), Community Services (Macklin), Housing (Plibersek), and Home Affairs (O'Connor)*

*From: Kendall Lovett*

Dear Prime Minister,

It is all very well for Centrelink to insist that its privacy charter is secure, but how can Centrelink prevent its fearful age and disability pensioners in a same-sex relationship being `outed` against their will in the public arena?

Centrelink may think it is able to guarantee no leak of a pensioner's same-sex relationship status by its staff but from the very first reduced couple payment the pensioner receives after 1st July, the financial institution --be it a bank or a credit union-- which the pensioner nominated to receive pension payments, will be well aware of the pensioner's new status. Don't tell me that they won't put two- and-two together especially if the pensioner is in a nursing home or boarding house run by a religious organisation.

Centrelink is forcing them by 1st July this year to identify themselves and even if one of them is not a pensioner the other has to identify his or her partner to Centrelink. This, the Government says, is only so that the correct pension payment may be made. But that violates basic human rights every bit as much as disclosing someone's HIV/AIDS status because the same-sex partner will then be investigated on his or her financial status and the pensioner partner may have his or her pension stopped until the investigation is completed. Is that fair treatment of people who were partners prior to the advent of gay liberation and may have lived their entire lives without revealing their

sexuality? Coming out at this time in their lives may not be a feasible option for them.

I remain appalled that this government hasn't recognised why elderly lesbians and elderly gay men haven't been open about their sexuality, why they have stayed in the closet. Their fear is genuine. In most cases they have faced ostracism, violence and discrimination throughout their long lives. Forget the highly illusionary benefits of the couple rate to these elderly people, who are you to demand that they surrender their cover so you can just add another discriminatory dimension to the twilight of their lives?

Where's your Government's wondrous compassion mentioned today by the Governor General at the swearing-in of new ministers?

Enclosed is a copy of a leaflet doing the rounds. It would be as well if you and the Government took note of its contents because it's still not too late to change the 'no grandfather' decision.

Attachment



## ONE PERSON-ONE PENSION

### LET'S BE HONEST!

Centrelink could protect its vulnerable lesbian and gay pensioners. Phase-in 'coming out!'

The federal treasurer plans to phase-in the age increase from 65 to 67 over six years but is denying a fair 'grand- father' exemption deal to pensioners in same-sex relationships. Instead of making all of us come out by July 1st this year, why can't the Government be under- standing and allow us to do so in easy stages? Here's how Centrelink could do it for us --its GLBT clients.

Aged 65 to 69: 1 July'09 to 30 June'10;

Aged 70 to 74: 1 July'10 to 30 June'11;

Aged 75 to 79: 1 July'11 to 30 June'12;

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S. O. A. P.

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Even de facto out-of-wed couples haven't had to endure Vilification, Violence, even Murder, Agents Provocateur and Criminal Laws for their lifestyle like lesbians and gay men. Even now, our governments aren't ready to recognise homophobia or the wrongs they have perpetuated by anti-gay laws for the last 100 years.

11 JUNE 2009

From: Ryan Batchelor Senior Adviser to Hon Jenny Macklin MP Minister for Families, Housing, Community Services and Indigenous Affairs

Dear Ms De Saxe

Thank you for your email of 7 April 2009 to the Minister for Families, Housing, Community Services and Indigenous Affairs, the Hon Jenny Macklin MP. about the same-sex law reforms. The Minister has asked me to reply to you on her behalf. I apologise for the delay in responding.

In 2006, the Human Rights and Equal Opportunity Commission conducted a National Inquiry into discrimination against people in same-sex relationships in the area of financial and work-related entitlements. The Inquiry held public hearings and community forums around Australia and received 680 submissions. Many same-sex couples giving evidence to the Inquiry were acutely aware that social security laws sometimes worked in their favour—Almost all of those couples suggested that they would happily give up those advantages if they were treated equally through all federal laws.

The 2007 published report of the Inquiry explained in detail the impact on social security and family assistance payments of implementing the report's

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recommendations to ensure that same-sex and opposite-sex couples enjoy the same financial entitlements.

The Government understands that many other older lesbian women and gay men have experienced disadvantage and some are in vulnerable situations. The same-sex law reforms changes are very significant. In recognition of this, the Government is working closely and consulting with representatives of the National Lesbian, Gay, Bisexual and Transgender Health Alliance on funding community organisations to assist same-sex couples adjust to the changes.

One of the outcomes of that consultation was Centrelink convening on 14 November 2008 the Removal of Same-Sex Discrimination Community Reference Group (CRG) with representation from a wide range of welfare, disability and lesbian, gay, bisexual and transgender community organisations and government agencies. The CRG has continued to meet since then. The CRG provides valuable input on a wide range of policy and implementation matters.

From 1 December 2008, following the passage through Parliament of the Bill, Centrelink established a dedicated enquiry line for customers who may be affected by the same-sex reform changes to discuss the changes and how their payments may be affected. The enquiry line number was publicised through a media release. From December 2008, Centrelink has continued to provide information about the changes through the print media, participation in radio interviews, discussing what the changes mean for Centrelink customers, and on the Centrelink website.

From March 2009, articles have been published in Centrelink and non-Centrelink publications. From 30 March 2009, Centrelink information campaign includes advertising across a wide variety of media, including national newspapers and magazines, gay and lesbian press, radio, selected internet sites and Indigenous and multicultural press and radio. The campaign informs people about changes to recognise same-sex relationships and encourages customers to contact Centrelink if they are in a same-sex relationship.

Centrelink staff are undertaking gay and lesbian awareness training to enhance their capability to respond to customer's disclosure in an understanding and appropriate manner. Centrelink engaged the services of a professional trainer from Gay and Lesbian Health Victoria to develop the training package and prepare internal Centrelink trainers to deliver this training to all Centrelink Customer Service staff.

Centrelink has extensive measures in place to protect people's confidentiality. Centrelink is bound by its legal obligation to comply with the Privacy Act 1988 as well as to abide by the numerous confidentiality provisions contained in the legislation that they administer. Acts which have such confidentiality provisions are the Social Security (Administration) Act 1999, A New Tax System (Family Assistance) (Administration) Act 1999 and the Student Assistance Act 1973. The confidentiality provisions govern access to use and disclosure of customer information. There are severe penalties for employees who breach the confidentiality provisions. These include penalties under various legislation (including the Crimes Act 1914) of up to two years imprisonment, facing

sanctions under the Public Service Act 1999 which attract disciplinary measures such as fines, demotions or dismissal, and contracted employees may have their contracts terminated.

## **9 June 2009**

*Preston Leader news item – 9 June 2009 - under a column on page 3 headed “BRIEFLY”:*

### Couple benefits

Same-sex couples who receive Government benefits have been reminded to register their relationship with Centrelink before law reforms come into effect on July 1. Human Services Minister Joe Ludwig said the law changes ensured opposite and same-sex couples were recognized equally in social security and family assistance payments.

## **11 June 2009**

Complaint sent to the Commonwealth Ombudsman:

Complaint Details: Centrelink advertisements showing toothbrushes and towels representing same-sex and heterosexual couples are inaccurate, demeaning and insulting to all concerned, and do not show human beings at whom the advertisements are directed. The advertisements are dishonest and distressing to same-sex couples who have had to remain closeted for most of their lives due to discrimination, abuse, insult and homophobia. Same-sex couples are NOT the same as heterosexual couples - they are not permitted to register their relationships in the same way and it is a lie to suggest otherwise.

Centrelink is about to expose - illegally - those who have not been able to be open about their relationships all their lives, and they will now be "outed" by a process sanctioned by the federal government and its agencies. The advertisements must be stopped and withdrawn, and apologies issued publicly for the harm and abuse directed at elderly, disabled, unemployed and otherwise disadvantaged members of the gay, lesbian, transgender and HIV/AIDS (GLTH) members of our communities.

Desired Action or Result:



Advertisement withdrawn and apologies issued for breaches of privacy and misleading and dishonest advertising.

**22 June 2009**

*John Boersig - Australian Government Attorney-General's Department- Social Inclusion Division  
This letter is assumed to be dated somewhere around 22 June 2009, because the person signing the letter couldn't be bothered to check whether the day had been put in or not!*

I refer to your e-mail of 20 May 2009 to the Prime Minister, the Hon Kevin Rudd MP, regarding the Government's same-sex law reforms. Your e-mail was referred to the Attorney-General, the Hon Robert McClelland MP. as it concerns matters that fall within his portfolio responsibilities. The Attorney-General has asked me to respond on his behalf.

The Government's same-sex reform package amends 84 Commonwealth laws to remove discrimination against same-sex couples and their families in areas such as taxation, superannuation, social security,

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health, aged care, veterans' entitlements, workers\* compensation, employment entitlements, immigration, child support and family law. The reforms have come into effect progressively, with all reforms being implemented by 1 July 2009.

Removing discrimination will result in some same-sex couples receiving benefits previously not accessible, for example, exemption of the family home from the assets test when one partner enters nursing home care and the other partner continues to reside there, equal treatment will also mean that the benefits that some same-sex couples currently receive may be reduced to be equal to the benefits received by opposite-sex couples in the same circumstances. The different rates of payment and income and assets limits available to partnered and single people recognise the ability of couples to gain financial advantage by pooling their resources and sharing living costs.

Grandfathering of benefits would require the continuation of differential treatment on the basis of

sexuality in Commonwealth legislation. In this way, grandfathering would undermine the purpose of the Government's reforms.

The Attorney-General's Department, along with the Department of Families, Housing, Community Services and Indigenous Affairs, Centrelink and other relevant agencies have been consulting with lesbian, gay, bisexual, transgender and intersex community and welfare representatives to ensure that the concerns of affected community members are carefully considered in the implementation stage.

The Australian Government will provide \$450,000 for a community education campaign to inform same-sex couples about implications of recent reforms to legislation. As part of the package, the Attorney-General has committed \$100,000 to the National Welfare Rights Network to assist Centrelink customers with independent and confidential legal information and advice about the same sex reforms and also to assist relevant sendee providers understand and assist their clients with queries about the reforms.

Regarding the issue of relationship registration, the Australian Government supports the development of nationally consistent, state-based relationship recognition that includes the opportunity for committed same-sex couples to have their relationships registered.

The same-sex reform package inserts a definition of 'de facto partner' into the Acts Interpretation Act 1901 that is gender neutral and applies to both same-sex and opposite-sex couples. It also provides that a person is a de facto partner of another if they are in a 'registered relationship'. The intention is to recognise relationships registered under State and Territory laws. This definition of 'de facto partner' will be used in many Commonwealth laws to provide a more consistent approach to the recognition of these relationships. Currently the Australian Capital Territory, Victoria and Tasmania have relationship registration schemes that are recognised under the Acts Interpretation Act.

I trust this information will be of assistance.

**24 JUNE 2009**

## HYPOCRISY FROM THE ATTORNEY GENERAL

We received a letter today, 24 June 2009 from the Attorney General's Department from the Social Inclusion Division. The letter is dated June 2009 without a day given in the date. The letter is in reply to my letter of 20 May to the Prime Minister, and referred to the Attorney General because the matter raised falls within his portfolio responsibilities.

The following paragraph explains why the Government has refused to provide a grandfather clause in the new same-sex legislation coming into force on 1 July 2009:

“Grandfathering of benefits would require the continuation of differential treatment on the basis of sexuality in Commonwealth legislation. In this way, grandfathering would undermine the purpose of the government's reforms.”

We have been subjected to a barrage of these sorts of explanations since the legislation was passed in December 2008. Subsequent to this date, the Government, in its budget of May 2009 announced that it would change pension age from 65 to 67

starting in 8 years time and being incrementally introduced over a period of six years, so that it would not be a shock move on people due to retire in the next few years, and would give them time to adjust to the changes.

When it was pointed out to the Government that it seemed that double standards applied here, we received the standard reply about differential treatment relating to sexuality.

On top of these insults to people who have been discriminated against for most of their working lives due to ongoing homophobia by governments and the community, we now get further discrimination on the basis, yet again, of sexuality.

Because the gay, lesbian, transgender and HIV/AIDS (GLTH) communities represent a minority in our communities who do not appear to have enough voting strength to challenge the government, these people are again being discriminated against.

In their Centrelink advertisements, which are a disgrace because they are demeaning, dehumanizing

and are blatantly dishonest because they state “Couples are Couples” meaning gay and straight couples will get the same treatment from Centrelink, they fail to acknowledge that straight couples can register their relationships at any time, but gay people can’t and are therefore not able to access equal treatment and discrimination continues.

Grandfathering would only undermine the purpose of the Government’s reforms because their homophobia does not allow them to contemplate that it would only be for a few years as the changes which the GLTH communities did not expect to achieve in their lifetimes were phased in to allow younger members of those communities to adjust to the legislative changes.

**30 June 2009**

*Peter de Waal sent us this letter which he sent to the Sydney Morning Herald and to several politicians in Canberra. Peter has requested that we send this on to all concerned people and also to the Melbourne gay papers, and this we will proceed to do.*

**Equality means poverty**

What a difference only six months and twenty odd days make for the estimated 11,000 lesbian and gay Centrelink dependants being affected by the 'equal treatment in commonwealth laws'.

Wednesday 1 July 2009 will be long remembered in Australian history as the day the most vulnerable of our community, lesbian and gay Centrelink dependants, suffered dreadfully unjust discrimination. Ironically, almost to the day, it coincides with the 40th anniversary (28 June 1969) of the New York Stonewall riots – the commencement of the modern homosexual rights movement.

The unfair social security implementation strategy of the Same-Sex Relationships (Equal Treatment in Commonwealth Laws - General Law Reform) Bill 2008 has completely overshadowed, for us, the equality the modern Australian homosexual movement started working towards almost 40 years ago with the establishment of CAMP Inc in Sydney. We were foundation members.



The above reform bill was tabled 4 September 2008 and signed into law on 9 December 2008. We were given to prepare for drastic (in our case 15%) income reduction only from December 2008 to 1 July 2009, which is just over six months.

In August 2008 when we started lobbying the Rudd Government for a longer Centrelink implementation period we didn't believe that we could point to discrimination. But when in the May 2009 federal budget's announcement of the gradual age increase (from 1 July 2017 and ending 1 July 2023) from 65 to 67, for the old age pension, came we believed that our meagre, and mean, SIX months adjustment period to be discriminatory.

It was not surprising to read that fewer than 1,400 people registered their same-sex relationship with Centrelink towards the end of June 2009. Anecdotal evidence shows that some same sex couples have separated to avoid extreme poverty instead of mere poverty. Centrelink dependent same sex couples' income was, before the so called 'equality legislation', already only half of Australian weekly earnings.

A Labor MHR confessed during a lobbying meeting with us, to the fact that the MP "wished they [the Labour party] had got this [the social security implementation strategy] right in the first place". This view was obviously ignored in the party room.

Recently, when the Federal parliamentary electoral allowances were substantially increased we were tempted to ask our local member if we could go on her payroll to supplement our comparatively low income and soon to be drastically reduced income!

Finally, we're looking forward to federal parliamentarians, and particularly Government members, standing up very soon, as Russell Broadbent recently did, when he spoke on 25 June 2009 about the abolition of the Detention Debt Bill:

"I find that this legislation was wrongheaded when it was introduced ..." He continued, "God forgive me that I was part of the parliament that did that, which caused so much distress to so many ..." Further saying "But what is it to the people that it affects? It is everything. It is their wellbeing and, to many, it's their honour—after all they have been through ..." He

concluded: "There have to be some that will stand up for the most vulnerable in our community and consider their position, whoever they are ..."

Peter Bonsall-Boone & Peter de Waal, Balmain.

1 JULY 2009

*We received the following items today, 1 July 2009, following our phone call to Centrelink on 26 June 2009:*

Thank you for contacting us regarding your relationship status. Changes to social security and family assistance legislation to recognise same-sex couples will take effect from 1 July 2009.

To make sure you are receiving the correct rate of payment we need more information about your circumstances.

Please complete the enclosed form and return it to us in the reply paid envelope by 17 July 2009. While it is not mandatory for you to provide this information

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before 1 July 2009, you may volunteer to do so. Providing it by this date will assist us in the timely assessment of your payments.

Once we receive your completed form, your payments will be reassessed from 1 July 2009 using the information you and your partner have provided. If there is a change to your payments you will be notified in writing.

Your personal information is protected by law and can only be released to someone else in special circumstances, where Commonwealth legislation authorises or requires, or where you give your permission. If you have concerns about your personal information, call us or come in and see us. We will advise you of your rights to see and amend your information under the Freedom of Information Act 1982. If you are still not satisfied, you can contact the Privacy Commissioner on 1300 363 992. If you have a hearing or speech difficulty, you can contact the Privacy Commissioner using a Teletypewriter (TTY) phone on 1800 620 241.

If you would like more information, or to notify us of any changes to the information you have provided, please call us on the number shown at the top of this letter.

*-This letter was not signed, which indicates the contempt Centrelink has for its "customers"/"clients"! A typical federal government effort!*

10 JULY 2009

*We received this letter today from Cheryl-anne Moy National Manager Ministerial and Parliamentary Branch- yet another example of the Federal Government's contempt and homophobia, and their disgusting behaviour continues!*

Thank you for your email of 1 April 2009 to the former Minister for Human Services, Senator the Hon Joe Ludwig regarding the same sex information campaign. The Hon Chris Bowen was sworn in as Minister for Human Services on 9 June 2009 and I have been asked to respond on the Minister's behalf I apologise for the delay in responding.

I acknowledge your list of issues relating to the Government's launch of the 'Couples arc Couples' same sex information campaign, which you raised in your correspondence. As most of these refer to policy and legislation, I have forwarded your letter to the Department of Families, Housing, Community Services and Indigenous Affairs for consideration.

You may be interested to know Centrelink staff have undertaken gay and lesbian awareness training. Centrelink engaged the services of a professional trainer from Gay and Lesbian Health Victoria, who has worked with Centrelink to develop the training package and prepared internal Centrelink trainers to deliver this training. Each trainer has undertaken a trainer familiarisation course. The gay and lesbian awareness training is only one component of training in preparation for the introduction of the removal of same-sex discrimination changes and will complement program training.

I also note your concerns about maintaining privacy when waiting in queues. Centrelink has introduced Customer Liaison Officers whose role is to enquire into the nature of a customer's concerns while they are

queuing in order to stream them to the appropriate service point. Where possible, a Customer Liaison Officer will immediately deal with the enquiry or ask customers with longer enquiries to be seated and then be seen by a Customer Service Adviser. This process assists in reducing wait times. Where a customer feels uncomfortable with divulging personal information in the queue, they can ask to be seen by a Customer Service Adviser at a desk or in an office.

----- and the band played on!!!!

*Hank Jongen PSM General Manager Centrelink  
Australian Government*

Thank you for your email and the feedback you provided about Centrelink's 'couples are couples' information campaign.

I acknowledge your comments about the images used in the campaign, however I can assure you they were chosen after extensive testing through market research and consultation with gay and lesbian community groups. Our messages were also tested in this way to ensure they were sensitive to the audience.

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The campaign started on 30 March 2009 and ended on 30 June 2009, and was a key component in Centrelink's strategy to inform customers, and potential customers, about the impact of these important reforms.

I would like to make the point that the factsheets and information products created to provide supporting information about these changes to gay and lesbian couples did feature images of same-sex couples and families. These were readily available in Centrelink offices, at stalls we held at community events and on our website. We recognise the diverse nature of modern Australian families and Centrelink publications are designed with this in mind. Information about the way Centrelink assesses all de facto relationships, whether between members of the same or opposite sex, is now featured in customer letters, forms and publications.

I acknowledge same-sex couples face different issues in declaring their relationships to us - that's why Centrelink established the dedicated enquiry line for same-sex customers to call for information. Calls for



information can be made anonymously if customers prefer.

As a result of these reforms all defacto couples will be treated the same way for Centrelink and family assistance purposes. Under the law, Centrelink will assess all couples using the same criteria, regardless of whether those couples are of the same or opposite sex. These reforms form one part of a series of changes the Australian Government has introduced to ensure same-sex couples and their families receive equal access to payments and services. I certainly understand the concerns you raised about couples being 'outed' as a result of these reforms, and the question of privacy has been raised during several radio interviews I have done on the reforms.

Our staff are bound by strict privacy and confidentiality guidelines and face penalties if they fail to adhere to those at all times. Centrelink takes privacy very seriously and customers can feel assured any information they provide to us will be protected.

Centrelink is committed to ensuring all customers, regardless of sexual orientation or gender identity, are

treated with dignity and respect. Customer service staff completed training in the lead up to the implementation of these reforms, which featured components on privacy and gay and lesbian awareness. Gay and Lesbian Health Victoria developed this training.

Centrelink has also worked closely with a community reference group comprised of gay and lesbian, HIV AIDS and other advocacy groups, to ensure these reforms are implemented in a sensitive way.

*- with nauseating repetition and more sexual apartheid!  
We are different but we are the same!!*

**30 October 2009**

Lies, Damned Lies, and Homophobia!!

*Ryan Batchelor -Chief of Staff - Office of the Hon Jenny Macklin MP - Minister for Families, Housing, Community Services and Indigenous Affairs*

Dear Mannie

Thank you for your letter of 17 September 2009 to the Minister for Families, Housing, Community Services and Indigenous Affairs, the Hon Jenny Macklin MP, and the Minister for Human Services, the Hon Chris Bowen MP, regarding same-sex couples. This matter falls within the portfolio responsibilities of Minister Macklin, and she has asked me to reply to you on her behalf. I apologise for the delay in responding.

You are seeking clarification as to why the Government did not introduce similar transition arrangements as there are for increases in the qualifying age for the Age Pension from 65 to 67 and for income test changes.

Those increases are not discriminatory. They apply in the same way to both men and women and do not discriminate on the basis of sexuality.

Removing discrimination based on sexuality has been a long time coming and is long overdue.

In 2006, the Human Rights and Equal Opportunity Commission conducted a national inquiry into discrimination against people in same-sex

relationships in the area of financial and work-related entitlements. The 2007 published report of the Inquiry explained in detail the impact on social security payments of implementing the report's recommendations to ensure that same-sex and opposite-sex couples and their children have the same financial entitlements.

The Government committed to same-sex law reform before the last election. During the 2007 election campaign, the Prime Minister, the Hon Kevin Rudd MP, announced that legal discrimination against same-sex couples should be removed, including from social security law.

When the Attorney-General, the Hon Robert McClelland MP, announced these reforms on 30 April 2008, he explained the impact this would have on same-sex couples on a pension. Since then, there has been much discussion about this in the media, especially in Lesbian Gay Bisexual and Transgender media. The Same Sex Relationships (Equal Treatment in Commonwealth Laws - General Law Reform) Bill was introduced into Parliament on 4 September 2008. Given the potential for the reforms to reduce the

benefits that some same-sex couples receive, the Government allowed for a lead-in time for the changes to social security and family assistance. Legislation was passed by Parliament in November 2008, and reforms applying to social security and family assistance commenced on 1 July 2009.

I appreciate your views on the Government's policy on same-sex marriage/civil unions. The Rudd Government is committed to ensuring that all couples, whether married or de facto, do not suffer discrimination. The Government's position is that the most appropriate way to achieve this is through the development of a nationally consistent framework that provides the opportunity for all couples who have a mutual commitment to a shared life to have their relationship officially recognised and equal rights for all couples in Federal and State laws. These reforms are to be implemented consistently with our commitment to maintaining the definition of marriage as currently set out in the Marriage Act.

15 January 2010

*The following articles were in the Sydney Morning Herald and The Age online. The Age print version was much abbreviated from the other versions:*

## Centrelink sympathy for fearful gay couples

THE Federal Government has promised to take a compassionate approach to elderly gay couples and same-sex couples living in rural areas who are affected by new social security laws.

In a letter to gay organisations the Minister for Families, Housing, Community Services and Indigenous Affairs, Jenny Macklin, said Centrelink would take into account people's fear of discrimination in determining their social-security debt.

If same-sex couples who individually receive government payments had failed to register with Centrelink because of "a legitimate fear that they or their partner will be discriminated against", Centrelink would consider waiving the debt, the letter said.

Only about 6300 people - just over half the expected number - have declared their same-sex couple status to Centrelink. Couples who failed to register by July 14 last year will be accumulating social-security debts and face repayment and possible prosecution if caught. Some couples, including age and disability pensioners, can lose about \$180 a fortnight, or all their pension, under changes that treat them the same as heterosexual de factos. They will have their partner's income taken into account, and receive the lower couple rate rather than two single-rate pensions.

The law had created turmoil in sections of the gay community, contributing to the relatively low registration rate, said Maree O'Halloran, the director of the Welfare Rights Centre, which has run a federally funded hotline.

People in their 70s and 80s had gone through soul-searching over whether to "out" themselves, others had debated whether they fitted Centrelink's definition of a couple, partners had disagreed over registration, and others had broken up rather than become financially inter-dependent for the first time, Ms O'Halloran said.

"Some relationships have fallen apart and some have got stronger," she said.

In the letter to ACON and the Australian Coalition for Equality last month, Ms Macklin said discrimination fears might "apply more so for older rather than younger people and may also be more relevant in a rural setting than a metropolitan setting".

People who had been unaware of the Government's education campaign about the changes may also be considered with some compassion.

The Government ruled out "grandfathering" the changes, even for gays aged over 75. It also said the 2008 amendment of 84 Commonwealth laws had removed differential treatment and had given elderly gays access to some benefits such as the Department of Veterans Affairs widow's or widower's pension.

But Jo Harrison, a gerontologist at the University of South Australia, said it was "pig ignorant" of Centrelink to ask elderly gays the same questions as heterosexuals to ascertain their couple status.



A disability pensioner had been suicidal over the loss of his pension, making him dependent on an employed partner, Dr Harrison said.

"The old-fashioned heterosexual model of a dependent wife on a breadwinner husband is being imposed on gays and lesbians," she said.

A man, 76, said he and his partner, 82, had not registered because they believed they did not fit Centrelink's definition of a couple: they had not had sex together for 30 years.

But at a Centrelink interview they were asked about their current and past sexual relations, as well as other questions used to determine de facto status.

These included financial and social relations, the nature of their commitment and their household. He accepted receiving the reduced pension but resented the embarrassing questions.

"For my partner it was a terrifying experience ... my partner feared blackmail for declaring formally his gay

orientation and activity at a time in the past when people could be sent to jail for it," he said.

26 JANUARY 2010

*This article is from the Sydney Star Observer by Andrew M Potts*

Policy vacuum on gay seniors

Gerontologist Dr Jo Harrison has called for sweeping reforms to the federal approach to the needs of gay and lesbian seniors.

Currently the only recognition of gay and lesbian seniors in federal policy or law are the 2008 changes to the Aged Care Act which recognised same-sex couples for the purpose of assessing fees and charges for residential care.

“What that’s created is a situation where an elderly same-sex couple fronting an aged care assessment team or Centrelink officer would have to come out in order to be eligible for benefits have been provided by this amendment,” Harrison said.

“But what the Commonwealth has not done is provide the sorts of sensitivity awareness training, changes to paperwork, notification of staff that has to go with that. They need to get advocates on the ground who can provide GLBTI advocacy, who can train staff, and who can begin to write the education modules.”

Harrison said gay and lesbian seniors should be designated as an official special needs group. Groups currently recognised as special needs include indigenous seniors, culturally and linguistically diverse seniors, seniors in rural and remote areas, and seniors with dementia.

Prime Minister Kevin Rudd recently announced the ‘Forgotten Australians’ — those abused in orphanages between 1930 and 1970 — would be listed as an aged care special needs group because of their particular fears about institutionalisation.

“In GLBTI seniors we have a group with not just particular fears of institutionalisation, but surrounding all aspects of aged care — who de-gay their homes when carers come, who are terrified of being outed or persecuted, and who’ve lived lives with

the stigma of being treated as criminals and sinners,” Harrison said.

Harrison said the response from departmental officials is that current standards covering residents’ rights to their own cultural customs, lifestyle, privacy and dignity should also cover gay and lesbian seniors.

However, she said in the absence of federal anti-discrimination laws or specific guidelines covering gay and lesbian seniors this was unlikely to happen.

Recent reviews of the aged care accreditation scheme by the Department of Health and Ageing, and the aged care complaints investigation scheme by Professor Meryllyn Walton of the University of Sydney Faculty of Medicine are yet to be made public.

**27 April 2015**

DEAR LIFE – ON CARING FOR THE ELDERLY By  
Karen Hitchcock

## Correspondence – Quarterly Essay

Ken is 92 and I am 88 and we have been together for 22 years. We are gay and were “married” by Kevin Rudd on 1 July 2009 when he refused to grandfather phasing in de facto pensions for newly recorded gay, lesbian, transgender, HIV/AIDS partnerships. As equivalents of married pensioners and now no longer on single pensions, we lost about \$200 each fortnightly from our Centrelink pensions.

As gay activists we were known as a partnership and would not have escaped scrutiny from Centrelink if they had started to investigate who were “couples” and who were not.

We moved to Melbourne from Sydney and Newcastle in 2001 after we bought a house in Preston in one of Melbourne’s north-eastern suburbs. We are fortunate to have been able to buy a house and not be renting, so that in our very old age we do not have to struggle with our finances every month as so many other people have to, and while we have maintained reasonable health over time, when one of us has

health problems, we do our best to keep up with normal activities as much as possible.

I am our webmaster, and I look after two different web sites and a blog. When we were in Sydney we belonged to an activist group called InterSection, and one of our activities was involved with local government areas and discrimination by councils of their gay, lesbian, transgender and HIV/AIDS (GLTH) residents, where we discovered some appalling homophobia and other mistreatments.

In Preston we found ourselves living in Darebin City Council area, and from about 2003/2004 when we read some council document about inclusion, we decided to see what was going on in relation to the GLTH communities with which we had been active over the years.

**4 October 2017**

End Note: In our life time

Same-sex relationships are still not fully recognised in Australia 2017.

The Commonwealth passed the Human Rights (Sexual Conduct) Act 1994 legalising sexual activity between consenting adults (in private) however Tasmania was the last state to decriminalise homosexuality in 1997 twenty-two years after South Australia.

World Health Organisation had kept homosexuality on its list of diseases until 1992.

**Primary source Reference:**

<http://www.josken.net/inters7.htm>

<http://www.josken.net/inters8.htm>

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