

Committee Secretary
Select Committee on the Exposure Draft of the Marriage
Amendment (Same-Sex Marriage) Bill
Department of the Senate
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13 January 2017

To Whom It May Concern,

**The Commonwealth Government's exposure draft of the Marriage
Amendment (Same-Sex Marriage) Bill**

The Australian Psychological Society (APS) welcomes the opportunity to respond to the Commonwealth Government's exposure draft of the Marriage Amendment (Same-Sex Marriage) Bill. The APS is the national professional organisation for psychologists with more than 22,000 members across Australia. Psychologists are experts in human behaviour and bring experience in understanding how to support people to optimise their function in the community. A key goal of the APS is to actively contribute psychological knowledge for the promotion and enhancement of community wellbeing.

APS Position on Marriage Equality

The APS supports marriage equality (same-sex marriage), and hence supports the removal from Australian marriage legislation the specification that was added in 2004 that marriage is only able to be undertaken by heterosexual couples. The APS's position is based on the most current available evidence of the likely harm to the mental health and wellbeing of lesbian and gay, as well as of transgender and intersex, Australians who are not free to marry the partner of their choice (see Appendix for relevant APS position statements and submissions). Decades of psychological research provides evidence linking marriage to mental health benefits, and highlighting the harm to individuals' mental health, as well as to families and society in general, that is wrought by social exclusion and discrimination.

Response to the Exposure Draft Bill

The APS welcomes the Marriage Amendment (Same-Sex Marriage) Bill as an important step towards achieving marriage equality and eliminating discrimination towards LGBTI communities within Australian society.

We support the proposed change of the definition of marriage from being between 'a man and a woman' to 'two people' regardless of their gender, and the recognition of marriages between same-sex couples who have married overseas, including those previously married before the Bill becomes law.

The APS is concerned that the proposed draft Bill contains exemptions that go beyond religious freedom for ministers of religion to being based on personal conscience, which may or may not relate to religion, and therefore may still enable discrimination to occur, and in fact would enshrine that discrimination as legal. No other group is singled out in this way in marriage laws. It would be incongruous to legalise one form of discrimination (i.e. on the basis of personal views or conscience) while intending to remove an existing form of discrimination from the law (i.e. against couples that are not comprised of one man and one woman). This would likely serve to increase the stigma associated with the minority status of LGBTI people, which would be likely to entrench existing prejudices rather than to increase the social acceptance of LGBTI people through access to marriage, as intended. A plethora of research indicates that such stigmatisation, whether perceived or real, is associated with negative physical and mental health.

The APS supports religious freedom and agrees with the exemptions relating to the right of ministers of religion to conduct religious marriage ceremonies in accordance with the tenets and doctrines of their religion. However, this freedom should encompass all aspects of religious marriage, rather than focusing solely on the exclusion of same-sex couples, and should not be extended to civil celebrants, given they are acting on behalf of the state (and not a religion).

Further, provisions for discrimination based on 'conscientious belief' — that is, even when their objection to same-sex marriage is not linked to religious doctrine or principles - sets a dangerous precedent and should be removed from the Bill.

Any Australian might claim a 'conscientious belief' that a particular religion, political party or style of dress is un-Australian, unpalatable or immoral, but that would and should not give them the right to refuse to serve a person belonging to such a group in the course of their employment, for example in a bakery, petrol station, or childcare centre. Such a refusal would constitute discrimination, and is not acceptable.

Finally, the draft Bill proposes that religious bodies and organisations be permitted to refuse to provide facilities, goods or services to LGBTI people for their weddings. This exemption is unnecessary, given the existing broad religious exemptions in federal discrimination law, and uncertain in scope because the terms 'bodies and organisations' is not defined. This exemption should be removed from the draft Bill.

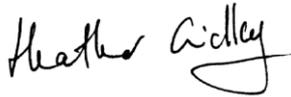
The APS takes the view that marriage equality is a human rights issue. Individuals, couples, families, communities, and nations benefit from having laws that are based on and promote respect and equality, and fair and equal treatment for all, regardless of gender, sexuality, culture and religion.

Psychologists regard people as intrinsically and equally valuable and respect their rights to autonomy, fairness and justice. Psychologists engage in conduct that promotes equity and the protection of people's human rights, legal rights, and moral rights (APS, 2007). Underpinning this conduct is the strong evidence linking human rights, material circumstances and psychological (as well as physical) health, and the recognition that stigma, detriment and family and social division result from laws which treat some people with fewer options, rights and responsibilities, and respect than others, on the basis of such characteristics as gender, sexuality, culture and religion. Psychologists are committed via their Code of Ethics to the principle that all Australians should be supported to achieve positive mental health and full social inclusion. The APS therefore supports full marriage equality, regardless of sexual orientation or gender identity, on human rights, health and wellbeing grounds.

The preparation of this submission has been coordinated by the APS Public Interest team with input from other expert advisers. Psychology in the Public Interest is the section of the APS dedicated to the communication and application of psychological knowledge to enhance community wellbeing and promote equitable and just treatment of all segments of society.

For further information please contact me on 03 8662 3327.

Yours sincerely,

A handwritten signature in black ink that reads "Heather Gridley". The signature is written in a cursive style with a large, looping 'G' at the end.

Ms Heather Gridley FAPS
Manager, Public Interest
Australian Psychological Society

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APPENDIX

APS activities relating to marriage equality and LGBTI people

The following webpage documents the APS position on issues affecting the human rights, mental health and wellbeing of LGBTI people: <http://www.psychology.org.au/Content.aspx?ID=5638>. This page outlines all the relevant work (position papers, articles, submissions, ethical guidelines, media releases etc.) undertaken by the APS in the area, particularly with regard to marriage equality and same-sex parenting.

The APS Gay and Lesbian Issues in Psychology Interest Group (GLIP) provides further information regarding lesbian and gay psychology in Australia at <http://www.groups.psychology.org.au/glip/>. GLIP is involved in advocacy work, in producing and supporting research in the field of

lesbian and gay psychology, and in supporting practitioners in providing services to members of LGBTI communities.

APS Position on Marriage Equality

The APS support for marriage equality is based on the most current available evidence of the likely harm to the mental health and wellbeing of lesbian and gay Australians who are not free to marry the partner of their choice. Decades of psychological research provides the evidence linking marriage to mental health benefits, highlighting the harm to individuals' mental health of social exclusion.

Marriage equality is also a human rights issue. Psychologists regard people as intrinsically valuable and respect their rights, including the right to autonomy and justice. Psychologists engage in conduct that promotes equity and the protection of people's human rights, legal rights, and moral rights (APS, 2007). The APS continues to raise concerns and contribute to debates around human rights, including the rights of clients receiving psychological services, and of marginalised groups in society (such as LGB/TI-individuals and groups) (<http://www.psychology.org.au/community/public-interest/human-rights/>). Underpinning this contribution is the strong evidence linking human rights, material circumstances and psychological health.

Media Release (19 August 2015) - Psychologists call for marriage equality

Psychologists are committed via their Code of Ethics to the principle that all Australians should be supported to achieve positive mental health and full social inclusion. The APS therefore supports full marriage equality for all people, regardless of their sexual orientation or gender identity, on human rights, health and wellbeing grounds.

- [Read the media release](#)

APS Submissions

- [APS Submission to the Senate Legal and Constitutional Affairs Committee Inquiry into Recognition of Foreign Marriages Bill](#) (July 2014)
- [New South Wales Legislative Council Standing Committee on Social Issues Inquiry into Same Sex Marriage Law in NSW](#) (March 2013)
- [Senate Inquiry: Marriage Equality Amendment Bill 2010](#) (April 2012)