

NTCOSS

Northern Territory Council of Social Service



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31 January 2018

The Hon. Natasha Fyles
Attorney General
GPO Box 3146
Darwin NT 0801

To the Hon. Natasha Fyles,

Re: The modernisation of the Anti-Discrimination Act NT

Thank you for your letter regarding the proposed changes to the Anti-Discrimination Act NT.

Anti-discrimination and Equal Opportunity laws provide important protections for all citizens, and particularly those facing vulnerability and hardship on the Northern Territory.

These laws uphold the values of equity and fairness, which are values that underpin the work of the Northern Territory Council of Social Service and the social service providers we represent.

As contemporary standards and expectations relating to discrimination and equal opportunity progress, the associated laws need to be modernised. As such, we thank you for the opportunity to provide feedback on the Northern Territory Government's *'Modernisation of the Anti-Discrimination Act'* discussion paper.

The following submission from NTCOSS addresses just some of the proposed changes to the Act.

Yours Sincerely,

Wendy Morton
Executive Director, Northern Territory Council of Social Service



Submission to the

**Modernisation of the Northern Territory
Anti-Discrimination Act Review**

January 2018

Northern Territory Council of Social Service Inc (NTCOSS)

NTCOSS is a peak body for the Northern Territory community sector and is a voice for people affected by social and economic disadvantage and inequality.

The community sector in the Northern Territory is made up of community managed, non-government, not for profit organisations that work in social and community service delivery, sector development and advocacy.

The sector plays a vital role in creating social wellbeing for all Territorians and in building safe and healthy communities by providing services that enable people to access and participate in health services, education, employment, economic development, and family and community life.

NTCOSS represents a service sector with a high level of contact with individuals and their families who may face discrimination because of age, ability, race, gender, socioeconomic status.

NTCOSS works towards a fair, inclusive and sustainable Northern Territory where all individuals and communities can participate in and benefit from all aspects of social, cultural and economic life.

Introduction

NTCOSS commends the Northern Territory Government for conducting this review and thanks it for the opportunity to provide a submission.

While NTCOSS acknowledges the importance of all the issues covered in the Review, this submission will not cover the full range of matters.

Broadly, NTCOSS supports the proposed amendments to the Northern Territory Anti-Discrimination Act, but where stated may specifically endorse the submissions of other social service organisations.

MODERNISATION REFORMS

Gender and Sexuality Protections

Under this section NTCOSS endorses the submissions of Rainbow Territory and organisations which specialise in gender and sexuality policy and service provision.

Vilification

Question 4

Should vilification provisions be included in the Act? Should vilification be prohibited for attributes other than on the basis of race, such as disability, sexual orientation, religious belief, gender identity or intersex status?

NTCOSS supports the current definition of vilification in the Act.

NTCOSS also endorses the position of Rainbow Territory.

Additional Attributes

Question 5

Should the Act create rights for people experiencing domestic violence in relation to public areas of life such as employment, education and accommodation?

The inclusion in the Act of rights for people experiencing domestic violence in relation to public areas of life is supported by NTCOSS.

NTCOSS supports and endorses Anglicare NT's submission to this proposed amendment, as well as those from Northern Territory women's shelters, NT Shelter and legal aid organisations.

Question 6

Should the Act protect people against discrimination on the basis of their accommodation status?

The use of "accommodation status" as a broad descriptor and prohibited ground for discrimination may provide a reach outside "homelessness", to include scenarios in which renters, homeowners, or mortgagees facing discrimination because of these specific state of accommodation.

NTCOSS endorses the NT Shelter submission to this review.

Question 7

Should “lawful sex work” be included as an attribute under the Act?

Under this section NTCOSS endorses the submission of The Northern Territory, Sex Worker Outreach Program (SWOP NT) and the Sex Worker Reference Group (SWRG).

Question 8

Should “socioeconomic status” be included as a protected attribute?

In the Northern Territory socioeconomic status may impact or inhibit a person’s ability to access essential services. Including socioeconomic status as a protected attribute in the Act will work to afford every Territorian, regardless of income or socioeconomic status of their living location, the right to equal access to services and support mechanisms.

NEW REFORMS

Question 10

Should a representative complaint model process be introduced into the Act?

Should there be any variations to the process of the complaint model as described above?

The Northern Territory Anti-Discrimination Commission has a mandate to *promote equal opportunity for all Territorians*, with the aim to *eliminate discrimination from happening by raising awareness about individual’s rights and responsibilities under the Northern Territory Anti-Discrimination Act*.

While it is imperative for individuals to be supported to assert their rights under the Act, a complaint model that suits all complaints or complainants is required. A representative complaint model that allows for representative bodies to bring about complaints of discrimination on behalf of a group of people is required.

It is not unusual for individuals and/or groups to lack confidence or trust in legal and governance systems and procedures, or to lack the capacity to bring forward a complaint.

The provision of power to lodge representative complaints – for agencies and/or advocates on behalf of individuals and specifically groups - will allow the Anti-Discrimination Commission to more equally and effectively receive and deal with complaints.

REMOVING CONTENT THAT ENSHRINES DISCRIMINATION

Question 14

Should any exemptions for religious or cultural bodies be removed?

NTCOSS supports the proposal to remove the current exemptions and instead require religious bodies to apply for an exemption under the Act. As part of this process, the religious body would be required to justify and provide evidence as to why their service requires a particular exemption.

CLARIFYING AND MISCELLANEOUS REFORMS

Question 16

What are your views on expanding the definition of “work”?

Volunteers and unpaid workers make a significant contribution to the Northern Territory workforce and economy. In the NT not-for-profit sector alone 69% of organisations are supported by volunteer workers. As such, the definition of “work” in the Act should be expanded to include volunteers, unpaid worker, trainees, interns etc.

Question 17

Should Section 24 be amended to clarify that it imposes a positive obligation?

NTCOSS supports the proposition that Section 24 be amended to more clearly express that it creates a positive duty on the employer, service provider, educator and accommodator etc., and encourages a “proactive response to equal opportunity rather than a reactive response”.

Question 18

Is the name “Equal Opportunity Commissioner” preferred to the name “Anti-Discrimination Commissioner”?

The use of affirmative language can apply positive connotations to the work or issue at hand. Whilst it is important for the community to understand the legal and rights-based functions of anti-discrimination legislation, the use of *equal opportunity* instead of *anti-discrimination* clearly communicates the promotion of equality of opportunity and inclusion, as well as positive practices that support this.

NTCOSS supports the name *Equal Opportunity Commissioner*.

Question 19

Is increasing the term of appointment of the ACD to five years appropriate?

To align with similar roles in other states and territories in Australia, NTCOSS supports a 5-7 year appointment for the ACD

MODERNISING LANGUAGE

Question 21

Should the term “parenthood” be replaced with “carer responsibilities”?

The broad term “parenthood” can cover a range of responsibilities and relationships within families or other care arrangements.

NTCOSS supports the replacement of the term “parenthood” with “carer responsibilities”, to include and reflect the diversity of formal or informal family, care, or kinship arrangements in the Northern Territory.

Question 22

Should the term “marital status” be replaced with “relationship status”?

Since the commencement of the Act in 1993, the acceptance and undertaking of relationships other than traditional marriage has broadly increased. To reflect modern general acceptance and acknowledgement of different types of relationships NTCOSS supports the term “marital status” to be replaced with “relationship status” in the Act.