



Removing legal discrimination against LGBTIQ people

SNAPSHOT

South Australia has a proud tradition of being at the forefront of law reform to meet changing social values. So when discrimination against individuals from lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) communities remained embedded in legislation and regulations a reform process was needed.

Background

The government invited the South Australian Law Reform Institute (SALRI) to review laws that discriminated on the grounds of sexual orientation, gender, gender identity and intersex status.

The first SALRI report identified over 140 pieces of legislation that discriminated against individuals on the basis of sex or gender diversity. The most compelling evidence for change came during face to face discussions with individuals about the impact of the current legislation on their lives.

The initiative

The Premier committed to implementing the majority of the SALRI

recommendations immediately and the remainder upon further review. The first round of legislative amendments were contained in the Statutes Amendment (Gender Identify and Equity) Bill 2016.

Subsequent SALRI reports identified the need for further legislative reform, including the establishment of a relationships register, the recognition of overseas marriages, and access to assisted reproductive treatment, surrogacy and adoption.

The reform process largely removed legal discrimination against LGBTIQ people in South Australia and made the language in the statute books gender neutral.



What outcome will be delivered?



Whose support is necessary?



How will the outcomes be delivered and who will be responsible?

Public value

Positive social impact: Greater equality for all people under the South Australian legislation was achieved along with legal recognition of relationship, parentage and family rights for all couples regardless of sexual orientation or gender identity. Same-sex couples will be able to access surrogacy and assisted reproductive treatment to have a family. With much of the law reform passed by the Parliament, the Premier was able to make a genuine apology to LGBTIQ South Australians for the discrimination they experienced. This [formal apology](#), delivered in Parliament, had a profound impact on many individuals in the community and demonstrated a commitment to ending discrimination and building a supportive and inclusive society for all South Australians.

Public engagement: This reform generated intense and diverse public interest and significant engagement was conducted during the review process.

The independence of SALRI from government assisted in obtaining a strong number of responses during engagement activities. While the majority of reforms had a positive response, some specific reforms resulted in solid opposition. Tension between people with different views means at times the public value was contested.

Legitimacy & support

Clear objectives: The reforms supported the [South Australian Strategy for the Inclusion of Lesbian, Gay, Bisexual, Transgender, Intersex and Queer People 2014-16](#).

Political support: The legislative review was supported by the Governor of South Australia, the Premier and the Attorney-General. The major political parties had no party position on the reforms. Members of Parliament had to decide their position independently often weighing up diverse and strongly held views within their constituency.

Stakeholder & community support: LGBTIQ people were most affected by these reforms. Extensive stakeholder engagement occurred and authorisation came through collaboration with SALRI, Equal Opportunity Commissioner, Human Rights Law Centre, Department of Communities and Social Inclusion and LGBTIQ advocacy bodies.

Operational capability

ICT and other resources: To operationalise these reforms it was identified that a new relationships register was needed to interact with the Births, Deaths and Marriages database.

Human resources: A dedicated senior policy officer was allocated to the reforms full time for approximately 18 months. This meant a consistent approach across 140 different pieces of Legislation. Staff from several government agencies were involved in implementing the changes. Non-government agencies provided advice and expertise to the implementation of the reforms.

Financial: No additional budget was required for the reform process. Future management costs of the relationship

register will largely be offset by relationships registration revenue.

Outcome

Laws regulating recognition of relationships in South Australia no longer discriminate on the grounds of sexual orientation and gender identity. They affirm the view that loving, committed couples can be heterosexual or non-heterosexual and acknowledge non-traditional families. The key impact of the amendments are positive and achieve greater equity for everyone under South Australian legislation.

This is a great outcome for members of the LGBTIQ community and their families and there is significant public value for all South Australians when people are treated equally under the law.

For more information:

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