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Senator Lyn Allison
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Dear Senator Allison

**RE: INQUIRY INTO THE PROVISIONS OF THE SAME-SEX: SAME
ENTITLEMENTS BILL 2007**

Northern Rivers Community Legal Centre (NRCLC) welcomes the Democrats' establishment of an ad hoc committee to inquire into the provisions of the Same-Sex: Same Entitlements Bill 2007 in the face of the Coalition blocking a formal Senate inquiry.

NRCLC fully endorses the recommendations of the HREOC report. We believe immediate action must be taken to make the simple but important changes which will ensure that same sex couples and their children no longer face entrenched and systemic discrimination in key areas of their lives; areas in which heterosexual de facto couples take for granted.

NRCLC believes that the Government's views of gays and lesbians are out of step with prevailing community attitudes. We refer you to the recent National Galaxy Survey conducted for *GetUp!* in June 2007 in which 71% of people surveyed(1) agreed that same sex partners should have the same legal rights as those in a heterosexual de facto relationship. Of those surveyed who identified as Coalition voters, it is interesting to note that 63% supported the view that same- sex partners should have the same legal rights.

In our view, this is a further clear indication that Australians no longer support laws which allow unequal treatment, and reflect at their core, offensive, dangerous and homophobic attitudes.

Based on the casework, community education and networking we have undertaken over the last ten years with the lesbian and gay community (as one of our nominated target client groups), it is clear that discrimination is still a common experience for many in the community. Our clients have suffered homophobic vilification, personal violence, discrimination in employment & service provision and difficulties with the Family Court. As detailed in the HREOC Report, our clients continue to suffer legal

discrimination as a result of unfair Federal Government laws in areas of taxation, Centrelink pensions and benefits, Medicare and superannuation.

The case study below is of one client's experiences. Christine's story accurately reflects the reality for many in the Lesbian and Gay community and shows how federal discrimination pervades ordinary aspects of daily life for same-sex couples. The following is in Christine's own words:

Christine's Story

Parenting Orders

I am a lesbian in a long term relationship and in 2003 my partner and I had a baby. We had been together for 4 years and we decided, like many couples do, to progress our relationship to the next level. We knew we wanted to share the rest of our lives together and we wanted to enrich that life by creating another life. So, with love as our motive, we, like so many couples before us, naively and optimistically set upon the path to parenthood.

Our son, Daniel was born in June 2003. Kate and I stumbled through the upheaval of early parenthood and, after managing to muster more than 3 hours consecutive sleep; we decided that we'd better sort out our legal affairs now that there was another life to consider. This is when we opened Pandora's Box of institutionalised homophobia. I was so shocked to find out that two women who actively decide to have a baby are afforded lesser rights than a man and a woman who have a baby on the strength of a one night stand.

As the non biological parent of our son, Kate has no legal rights what-so-ever.

- She can't make decisions regarding his health – she couldn't even pick up his prescription medicine for reflux from the chemist!!
- She can't make decisions regarding Daniels welfare or best interests
- If I died she would have no legal right to the son that she was equally responsible for bringing into this world.
- Kate can't adopt Daniel without me having to rescind my rights
- And on the other hand, should Kate and I separate I would have no legal recourse to pursue child support.

The inequalities were glaring and we were dumbfounded. We thought we had covered our bases when it came to protecting our relationship legally – we had wills, powers of attorney and enduring guardianship orders. We had no idea that we would be required to jump through even more hurdles to legitimise our family.

Medicare

As a lesbian headed family we are unable to even apply for the Family Medicare Safety net. In 2003 I went into our local Medicare office and explained our situation to the woman behind the counter. Our son was a couple of months old and he was born 6 weeks premature and had reflux that required medical intervention. I was not on any Centrelink payment and my maternity leave had run out therefore I had no income what-so-ever. At the same time my partner was diagnosed with an illness that required hospitalisation. My son was on daily medication, as was I. Our medical bills were adding up and I was getting worried. The woman was most sympathetic and said she would try to register us on "the system". Every time she ticked the

“female” option on both partners the “system” came up with an error and would not let her progress. People behind me were getting annoyed as it was taking so long and were privy to every detail of my family as it is all open plan at the Medicare office. She was very apologetic but still we were unable to register for the family Medicare Safety net.

Tax

We have since had another child – this time my partner carried and birthed our baby. She too is ineligible for any parenting payment and I am unable to claim her and our daughter as a tax deduction despite the fact that I am the only income earner for our family of 4 on a wage of only 3 days per week.

Centrelink

When eventually applying for a single parenting payment through Centrelink, the psychologist made derogatory remarks about what a good wicket I was on being able to apply for a single parenting payment – she made out that we were cheating the system. I explained to her that, financially, we were much worse off than heterosexual couples eg

- unable to claim dependants as tax deductions
- unable to use “spouse” to split wages or offset income
- unable to use non biological children to offset some income
- unable to register for Family Medicare Safety Net
- having to pay for lawyers for parenting orders/enduring guardianship/wills and other means of legally protecting our relationship and our family
- insecurity of superannuation payouts and cost of legal bills to contest decisions

Sadly, she just didn’t get it and I left feeling terribly misunderstood and like I was cheating the system and didn’t deserve to be protected legally or financially because I am a lesbian.

Christine and Kate are prepared to live openly as a same-sex couple and challenge any discrimination they face. As a rural community legal centre, we are aware that many of our clients living in small conservative townships and villages are fearful of the consequences of ‘outing’ themselves to the general community. It can be very risky to be ‘out’ on a daily basis to your neighbour, employer or landlord. Even in the larger towns in our region we have acted for clients threatened, abused and assaulted merely because of their sexuality.

It would be of considerable assistance to improving the most basic aspects of daily living if the clear message from all legislators is that same-sex relationships are equal in the eyes of the law. We believe that the fundamental human right to have one’s relationship recognised and protected by government is at the core of changing community attitudes and reducing discrimination and violence against homosexuals.

We urge the Inquiry to recommend the immediate implementation of the findings of the HREOC Same-Sex Entitlements Report.

Yours faithfully,

Trish Mundy and Angela Pollard

On behalf of the Northern Rivers Community Legal Centre