

Monday, January 30, 2006

By email: stephen.lodge@dhs.vic.gov.au

Mr Stephen Lodge
Manager
Legislation Review
Public Health
Department of Human Services
GPO Box 1670N
Melbourne VIC 3001

Dear Mr Lodge

Review of *Health Act 1958* (Vic): Draft policy paper for consultation

The Fertility Access Rights Lobby (FAR) , a working group of the Victorian Gay and Lesbian Rights Lobby (**VGLRL**) welcomes the opportunity to respond to Department of Human Service's draft policy paper, *Review of the Health Act 1958 (Vic)* (the **Consultation Paper**).

About FAR

The Fertility Access Rights lobby aims to achieve equality in terms of access to reproductive technology, adoption and altruistic surrogacy for lesbian and gay people, as single people or in couples. FAR believes that children who are born into, or who live in, same sex attracted parented families must have their best interests and rights upheld under the Victorian law. FAR aims to achieve these aims by working with the media, undertaking and supporting research, conducting community education and directly lobbying politicians across all levels of government as well as key community organisations.

Currently FAR is coordinating two key activities: the Love Makes A Family campaign aimed at social and legal recognition of rainbow families and the Rainbow Families 3 conference.

Health of gay, lesbian, bisexual, transgender and intersex (GLBTI) Victorians

In 2002, a report by the Victorian Ministerial Advisory Committee on Gay and Lesbian Health showed that experiences of homophobic discrimination led to significant health inequalities for lesbian, gay, bisexual and transgender (**LGBTI**) people^[1].

The 2003 Victorian Law Reform Commission Consultation Paper "Assisted Reproductive Technology & Adoption: Should the Current Eligibility Criteria in Victoria be changed" ^[2] and the subsequent Occasional Papers produced as part of the ongoing enquiry as well as the three sets of public submissions received by the Commission, serve to further highlight the inequality and discrimination present in the current legal and medical system.

Given these identified significant health issues faced by LBGTI people, the FAR makes the following comments on certain aspects of the Consultation Paper.

Please note that we have been unable to comment on all aspects of the Consultation Paper.

Municipal Public Health Plans

The Consultation Paper recommends improved legislative support for aspects of Municipal Public Health Plans (**MPHPs**). We support the recommendation that municipal councils must continue to

prepare and review MPHPs. Further, we endorse the matters proposed to be included in MPHPs as follows:

- examine data about health status and health determinants in municipal councils;
- identify goals and strategies based on available evidence for creating healthy communities, to enable people living in the municipal district to achieve maximum health and wellbeing;
- describe how the local community is engaged in developing, implementing and evaluating the plan; and
- address how municipal councils work in partnership with the Department of Human Services and others undertaking public health initiatives, projects and programs within the municipal district to accomplish goals and priorities identified in the MPHP.

FAR recommends that MPHPs be required to specifically mention LGBTI populations. In particular FAR recommends that MPHPs should encourage municipal councils to consider how they might support children with same sex parents, as well as same sex parents, lesbian and gay prospective parents and LGBTI singles.

Examples of support may include:

- maternal and child health centres being sensitive to, and inclusive of, the needs of lesbian and gay parents and families
- Council run child care centres being inclusive of same sex parented families including staff training.
- Endorsement of the social and support groups for same sex attracted and transgender young people as well as social and support groups for children with same sex attracted parents and family members.

FAR endorses the suggestion that a requirement that MPHPs specifically mention LGBTI populations can help address the health inequalities faced by LGBTI people.

FAR also recommends that community input and/or consultation be required in the development of MPHPs. Local consultation can ensure that municipal councils have access to a wide range of views in the development of MPHPs. With community involvement, MPHPs will be more robust! and will be more likely to be accepted by stakeholders. In our view, such community input should include consultations with local LGBTI communities.

Donation of sperm

We also note that there is a requirement for a donor statement to be completed for tissue donors under section 133 of the *Health Act 1958 (Vic)*. However, the donation of semen is explicitly omitted from this requirement. We recommend that a donor statement be required in relation to the donation of semen.

Currently there are situations in Victorian clinics where gay men who wish to donate semen as known donors to women they know have their semen samples tested and quarantined for 6 months. If the gay man as a known donor of a woman/women answers any of the questions on the compulsory "Lifestyle Declaration" positively, the women will be obliged to sign a 'waiver' removing any liability from the clinic should anything untoward occur as a result of the donation being used. This is even after the stringent 6 month testing and quarantine process. FAR believes this is an example of institutional homophobia.

In addition gay men, or men who have sex with men, who wish to altruistically donate as an unknown donor are refused if they respond positively to several questions on the "Lifestyle Declarations" clinics ask them to complete. This dramatically decreases the availability of sperm donations in Victoria Clinics.

FAR believes this practice is unacceptable.

If you would like to discuss any of the above further, please contact Felicity Martin on 0411 593 607.

Yours sincerely

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Convenor
www.vgfrl.org.au/far