

30 January 2020

Australian Government Attorney Generals Department  
4 National Circuit  
BARTON ACT 2600

To whom it may concern

**Re: Feedback on the second exposure drafts of a package of legislation on religious freedom.**

On behalf of the National Association of People with HIV Australia (NAPWHA), I thank the Attorney-General for the opportunity to provide feedback on the federal government's second exposure draft of the *Religious Discrimination Bill 2019* (the Bill).

NAPWHA is Australia's peak non-government organisation representing community-based groups of PLHIV across Australia. We provide advocacy, policy, health promotion, effective representation, and outreach on a national level. Our work includes a range of health and education initiatives that promote the highest quality standard of care for HIV-positive people.

This letter endorses the Australian Federation of AIDS Organisation's (AFAO) submission to this review of the Bill. Like AFAO, we remain deeply concerned that the provisions in the Bill prioritise the religious beliefs of healthcare workers over the healthcare needs of marginalised individuals and communities who are living with or at increased risk of HIV and who require sensitive and specialist health services. Our concerns are that:

1. the Bill privileges religious expression to the exclusion of other beliefs and practices including clinical standards of practice;
2. this privilege creates a tension between Australia's pursuit of public health objectives to reduce HIV transmission, through significant federal government investment in new technologies such as Pre-Exposure Prophylaxis (PrEP)<sup>1</sup> and effective HIV treatment, and the refusal of health services based on religious belief;
3. in practice, the Bill will place Australia's domestic and international obligations to leave *no one behind* in our endeavour to end HIV transmission, in jeopardy  
and
4. By exposing people with HIV and other marginalised communities such as LGBTIQ populations to the threat of discrimination and judgment the Bill, if enacted, will disincentivise people from seeking testing, treatment and care.

<sup>1</sup> Pre-Exposure Prophylaxis (PrEP) is the use of HIV medication by an HIV negative person at risk of HIV. For more information see <https://www.afao.org.au/about-hiv/hiv-prevention/prep/>

In line with AFAO's submission, we recommend the following clauses be deleted:

- **Sub-sections 8(3)-(5)**

These provisions will allow healthcare professionals, doctors, nurses, midwives, pharmacists and psychologists, to make discriminatory statements of religious belief outside of their employment or professional body affiliation. It also prevents employers from providing inclusive and safe workplaces for employees and patients.

- **Sub-sections 8(6) and (7)**

These provisions prevent healthcare providers from developing conduct rules stopping doctors, nurses, pharmacists and psychologists from conscientiously objecting to provide a range of services to an individual if they deem a medical procedure, service or treatment to be inconsistent with their religious beliefs.

- **Section 42**

This section overrides federal, state and territory anti-discrimination laws and protects people who express prejudicial or discriminatory views about a range of Australians, including: people with HIV, Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) people, sex workers, people who use drugs and unmarried people and single mothers based on their religious beliefs, from prosecution.

The eighth *National HIV Strategy 2018-2022* includes a bold target to virtually eliminate HIV transmission in Australia by 2022. In support of this goal the guiding principles of the Strategy highlight access to safe, inclusive and sensitive healthcare as essential to Australia's response to HIV. Significant investment from federal, state and territory governments has enabled world's best practice healthcare across the HIV prevention, testing and treatment continuum in Australia. These efforts ensure priority populations can access services for routine HIV screening, Pharmaceutical Benefits Scheme (PBS)-subsidised prevention tools such as Pre-Exposure Prophylaxis (PrEP) and HIV treatment<sup>2</sup> and Post Exposure Prophylaxis (PEP)<sup>3</sup>, which is funded by state and territory governments.

A refusal to, or delay in, assessing a person's appropriateness for HIV prevention technologies needlessly exposes them to the anxiety associated with an HIV diagnosis, and the healthcare system to the lifetime treatment and medical costs associated with managing a person diagnosed with HIV. Furthermore, a refusal or delay in providing a person living with HIV access to their HIV treatment has significant consequences for that person's health management and their ability to maintain an undetectable HIV viral load which prevents onward transmission of the HIV virus. Our concern is that the Bill undermines the goals and guiding principles of the Strategy.

The HIV Partnership between government, community, research and clinical stakeholders has been a strong pillar of Australia's successful response to HIV. The Bill threatens to destabilise this partnership by creating an environment where healthcare providers and employers will be prevented from enforcing policies promoting diversity and respect for individual attributes such as sexual orientation and gender identity out of a fear of being exposed to a discrimination claim from someone who denies a service on the grounds of religious belief.

<sup>2</sup> The use of HIV treatment by a person with HIV has the dual benefit of ensuring an individual remains healthy and well and also preventing the onward transmission of HIV. For more information see <https://www.afao.org.au/about-hiv/hiv-treatment/>

<sup>3</sup> Post-Exposure Prophylaxis (PEP) is a four-week course of HIV medication commenced within seventy-two hours of an exposure to an episode of HIV risk. For more information see <https://www.afao.org.au/about-hiv/hiv-prevention/pep/>

In practice, the Bill in its current form, will restrict access to non-judgemental, safe and sensitive primary healthcare across the country and threatens to undermine Australia's progress towards meeting the targets in *the eighth National HIV Strategy 2018 - 2022*.

[NAPWHA](#) strongly endorses the recommendations made in AFAO's submission to the second exposure draft of the *Religious Discrimination Bill 2019*. Please do not hesitate to contact us or [AFAO](#) for more information about their recommendations and concerns we have about the Bill.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Cogle', with a horizontal line underneath.

Aaron Cogle  
Executive Director