



PeakCare
Queensland Inc.

Submission to the

Queensland Human Rights Commission

**Review of Queensland's Anti-
Discrimination Act**

28 February 2022

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INTRODUCTION

PeakCare Queensland Incorporated (PeakCare) welcomes the opportunity to provide information in response to the Queensland Human Rights Commission's *Discussion Paper on the Review of Queensland's Anti-Discrimination Act*.

ABOUT PEAKCARE

PeakCare is a not-for-profit peak body for child and family services in Queensland, providing an independent and impartial voice representing and promoting matters of interest to the non-government sector.

Across Queensland, PeakCare has more than 50 member organisations which include small, medium and large, local and state-wide non-government organisations which provide prevention and early intervention, generic, targeted, and intensive family support to children, young people, adults and families. Member organisations also provide child protection services, foster care, kinship care and residential care services for children and young people and their families who are at risk of entry to, or who are in the statutory child protection system.

A network of registered supporters also subscribes to PeakCare. Supporters include individuals with an interest in child protection and related services, and who are supportive of PeakCare's policy platform around the rights and entitlements of children, young people and their families to safety, wellbeing and equitable access to life opportunities.

ABOUT PEAKCARE'S SUBMISSION

PeakCare strongly contends that legislation designed to prevent discrimination needs to appropriately protect the human rights of all people, regardless of their gender, age or sexuality. We know there is a direct link between social inclusion and the promotion of acceptance, with improved wellbeing and a person's willingness and capacity to participate in society.

PeakCare supports the move to a more proactive approach for addressing the scourge of discrimination in Queensland and welcomes the Commission's review. As the Commission continues its work, we look forward to hearing from those with a direct lived experience of discrimination and inequality and are confident their voices will be instrumental in helping shape a new Anti-Discrimination Act. A new Act for Queensland which builds on the previous Act's successes and learnings will help create a more cohesive, inclusive and welcoming community for all Queenslanders.

To support the review, PeakCare has included below a response to each question raised in the discussion paper for the Commission's consideration.

PEAKCARE'S RESPONSE TO THE DISCUSSION PAPER QUESTIONS

DISCUSSION PAPER QUESTION	POSITION	EXPLANATION OF POSITION
KEY CONCEPTS		
1. Meaning of discrimination Should the Act clarify that direct and indirect discrimination are not mutually exclusive?	Supported	PeakCare supports updating the Act to clarify direct and indirect discrimination as not being mutually exclusive through applying a similar model to that used in the Australian Capital Territory.
2. Direct discrimination Should the test for direct discrimination remain unchanged, or should the 'unfavourable treatment' approach be adopted? Alternatively, is there a different approach that should be adopted? If so, what are the benefits of that approach?	Supported	PeakCare supports the adoption of an 'unfavourable treatment' approach in Queensland building on the learnings from its introduction and application in Victoria and the Australian Capital Territory. PeakCare considers the use of this approach would better reflect and account for the intersectional elements of discrimination.
3. Indirect discrimination Should the test for indirect discrimination remain unchanged, or should the 'disadvantage' approach be adopted? Alternatively, is there a different approach that should be adopted? If so, what are the benefits of that approach?	Supported	PeakCare supports the adoption of a 'disadvantage' approach in Queensland building on the learnings from its introduction and application in Victoria and the Australian Capital Territory.
4. Indirect discrimination Do you support a unified test for both direct and indirect discrimination? Why or why not?	Supported	PeakCare supports the adoption of a unified test for both direct and indirect discrimination similar to the model adopted in Canada. We believe a unified approach will reduce interpretational complexity and provide an additional mitigation against risks of systemic discrimination.
5. Special services or facilities Should an exemption of unjustifiable hardship relating to the supply of special services or facilities be retained? If so, in which areas? Should the factors relevant to determining unjustifiable hardship be redefined, and if so how? How can the compliance costs for business and organisations be appropriately considered and weighed?	No position held	PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.

DISCUSSION PAPER QUESTION	POSITION	EXPLANATION OF POSITION
<p>6. Reframing to a positive obligation</p> <p>Should the Act adopt a positive duty to make 'reasonable adjustments' or 'reasonable accommodations'?</p> <p>If you consider that this approach should be adopted:</p> <ul style="list-style-type: none"> • Should this be a standalone duty? • What factors should be considered when assessing 'reasonableness' of accommodations? • Should it apply to disability discrimination, other specific attributes, or all attributes? • Should it apply to specific areas of activity or all areas? For example, should it apply to goods and services, work, education, and accommodation? • How would any amendments interact with exemptions involving unjustifiable hardship? Would there be a need to retain the concept of unjustifiable hardship at all? 	Supported	PeakCare supports the reframing of this provision to include a positive obligation building on the learnings and approach legislated in Victoria.
<p>7. Discrimination on combined grounds</p> <p>Is there a need to protect people from discrimination because of the effect of a combination of attributes?</p> <p>If so, how should this be framed in the Act?</p> <p>Should other legislative amendments be considered to better protect people who experience discrimination on the basis of combined grounds?</p> <p>What are some examples of where the current law does not adequately protect people from discrimination on combined grounds?</p>	Supported	PeakCare supports the introduction of greater protections for people experiencing intersectional discrimination noting the significant influence intersectional disadvantage has within the child and family system. PeakCare is supportive of the introduction of a model similar to that used in the Australian Capital Territory.
<p>8. Burden of proof</p> <p>Should the onus of proof shift at any point in the process?</p> <p>If yes, what is the appropriate approach?</p>	No position held	PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.

DISCUSSION PAPER QUESTION	POSITION	EXPLANATION OF POSITION
<p>9. Meaning of sexual harassment</p> <p>Should the additional words 'in the presence of a person' be added to the legal meaning of sexual harassment in the Act? What are the implications of this outside of a work setting?</p> <p>Should a further contravention of sex-based harassment be introduced? If so, should that be applied to all areas of activity under the Act?</p> <p>Should the Act explicitly prohibit creating an intimidating, hostile, humiliating or offensive environment on the basis of sex? If so, should that apply to all areas of activity under the Act?</p>	<p>Supported</p>	<p>PeakCare supports expanding the meaning of sexual harassment and strongly supports measures that address toxic cultures where there is an overt or passive acceptance of inappropriate behaviour and sexual harassment. We support the Act being updated to explicitly prohibit creating an intimidating, hostile, humiliating or offensive environment on the basis of sex.</p> <p>PeakCare does note there is complexity in considering the appropriate scope of any proposed expansion given the current breadth of the legislation which includes all settings, public and private.</p> <p>PeakCare recommends the Commission give consideration to the approach taken in the Australian Capital Territory which clarifies that sexual harassment may be 'to, or in the presence of' the person, and how they have managed the scope of its application to public and private settings.</p>
<p>10. Two-stage enforcement model</p> <p>Should the Act include a direct right of access to the tribunals?</p> <p>Should a complainant or respondent be entitled to lodge their complaint directly with a tribunal?</p> <p>Should a person be entitled to apply directly to the Supreme Court where circumstances raise matters of significant public interest matters? If so:</p> <ul style="list-style-type: none"> • Should it be confined to certain matters? • What remedies should be available to the complainant? • Who would have standing to bring the complaint? • What are the risks and benefits of any direct rights of access? • What circumstances could these amendments apply to? • Please provide examples that may justify this approach. • How could the process be structured to ensure that tribunals and the Supreme Court are not overwhelmed with vexatious or misconceived claims? 	<p>No position held</p>	<p>PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.</p>

DISCUSSION PAPER QUESTION	POSITION	EXPLANATION OF POSITION
<p>11. Terminology</p> <p>Should the 'complaint-based' terminology be changed? If so, what should it be replaced with?</p>	Supported	PeakCare supports the use of terminology which does not perpetuate negative connotations or create barriers for access to individuals who may already be facing significant disadvantage. PeakCare is supportive of the terminology used in Victoria relating to 'bringing a dispute' and 'dispute resolution'.
<p>12. Written complaints</p> <p>Should non-written requests for complaints be permitted, for example by video or audio? Alternatively, should the Commission be allowed to provide reasonable help to those who require assistance to put their complaint in writing? How would this impact on respondents? How can the right balance be achieved between ensuring certainty for the respondent about the contents of the complaint while addressing the barriers to access?</p>	Supported	<p>PeakCare supports the introduction of measures that promote participation and increase accessibility for people with a diverse range of abilities and from culturally and linguistically diverse backgrounds. PeakCare agrees the current requirement for complaints to be made in writing creates a significant barrier and deterrent to participation which unfairly marginalises some individuals.</p> <p>PeakCare supports enabling the commission to provide reasonable help to complainants and would recommend this extend to respondents, where they may also face barriers in accessing information on the complaint.</p>
<p>13. Efficiency and flexibility</p> <p>How can the law be adapted to allow a more flexible approach to resolving complaints? Should the current provisions that require set notification and conference timeframes be retained, changed or repealed? Should all complaints proceed through the same conciliation model, or should early intervention be an option? What legislative or non-legislative measures should be in place to ensure procedural fairness, timeliness, and efficiency?</p>	No position held	PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.

DISCUSSION PAPER QUESTION	POSITION	EXPLANATION OF POSITION
<p>14. Time limits</p> <p>Is 1 year the appropriate timeframe within which to lodge a complaint? Should it be increased and if so, by how long?</p> <p>Should there be special provisions that apply to children or people with impaired decision-making capacity?</p> <p>Should out of time complaints that have been accepted at the Commission as showing 'good cause' be subjected to the further requirement of proving 'on the balance of fairness between the parties, it would be reasonable to do so' before being dealt with by the tribunal?</p> <p>Should the tribunal review the Commission's decisions to decline complaints instead of the Supreme Court?</p>	<p>No position held</p>	<p>PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.</p>
<p>15. Representative complaints</p> <p>Are there any changes that would improve the accessibility and utility of representative complaints?</p> <p>What factors influence the capacity for affected people to assert their rights as a representative complaint?</p>	<p>No position held</p>	<p>PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.</p>
<p>16. Organisation complaints</p> <p>Should a representative body or a trade union be able to make a complaint on behalf of an affected person about discrimination? Why or why not?</p> <p>Should representative complaints be confined to the conciliation process, or should they be able to proceed to the tribunal?</p>	<p>Supported</p>	<p>PeakCare supports the inclusion of provisions that allow representative bodies and trade unions making complaints on behalf of one or more affected persons in relation to discrimination. We consider this an important mechanism for ensuring all people can have a voice, and be appropriately represented when seeking to address discrimination, particularly those who already face significant disadvantage and systemic discrimination.</p> <p>PeakCare recommends the Commission give consideration to the approach and learnings from the legislative provisions used in New South Wales and Victoria which provide the ability for a representative body to make an application on behalf of a named person or persons.</p>

DISCUSSION PAPER QUESTION	POSITION	EXPLANATION OF POSITION
<p>17. Complaints by prisoners</p> <p>Should the additional requirements for prisoners to make complaints be retained, amended, or repealed?</p> <p>Do the current provisions strike the right balance in ensuring access to justice while encouraging early resolution?</p> <p>Should any internal complaint requirements for prisoners be retained, and if so, how can they be simplified to overcome practical concerns?</p>	Supported	<p>PeakCare supports the repeal of additional requirements for prisoners making complaints noting the significant practical challenges highlighted in the Commission's Discussion Paper and the findings and recommendations of the <i>Women in Prison Report</i>.</p> <p>We consider the current additional requirements create barriers for prisoners in accessing appropriate complaints processes and their repeal would be a positive step in better supporting prisoners' human rights and entitlements.</p>
<p>18. Other dispute resolution issues</p> <p>Are there any aspects of the complaint (dispute resolution) process that should be considered by the Review?</p> <p>If so, what are the issues and your suggestions for reform?</p>	No position held	PeakCare does not hold any further positions on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.
ELIMINATING DISCRIMINATION		
<p>19. Objectives of the Act</p> <p>What should be the overarching purposes of the Anti-Discrimination Act?</p> <p>Should an objects clause be introduced?</p> <p>If so, what are the key aspects that it should contain?</p> <p>If the purposes of the Act change, should the name of the legislation change to ensure it reflects those purposes?</p>	No position held	PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.
<p>20. Special measures</p> <p>Should welfare measures and equal opportunity measures be retained or changed? Is there any benefit to collapsing these provisions into a single special measures provision?</p> <p>Should special measures provisions continue to be an exemption to discrimination or incorporated into the meaning of discrimination?</p>	Supported	PeakCare supports the reframing of special measures from being a defence to discrimination to an essential element of the legislative framework with the goal of achieving substantive equality. We further note and agree with the Commission's suggestion of the potential value and benefit of this reframing in supporting the transition to a positive duty.

DISCUSSION PAPER QUESTION	POSITION	EXPLANATION OF POSITION
<p>21. Positive duties</p> <p>Do you support the introduction of a positive duty in the Anti-Discrimination Act?</p> <p>Should a positive duty cover all forms of prohibited conduct including discrimination, sexual harassment and victimisation? Why, or why not?</p> <p>Should a positive duty apply to all areas of activity in which the Act operates, or be confined to certain areas of activity, such as employment?</p> <p>Should a positive duty apply to all entities that currently hold obligations under the Anti-Discrimination Act?</p> <p>What is the extent of the potential overlap between WHS laws and a positive duty in the Anti-Discrimination Act? If a positive duty is introduced, what considerations would apply to the interface between existing WHS laws and the Anti-Discrimination Act?</p> <p>What matters should be considered in determining whether a measure is reasonable and proportionate?</p>	<p>Supported in principle</p>	<p>While PeakCare is supportive in principle of the introduction of a positive duty in the Anti-Discrimination Act, we welcome the contributions of others who hold a greater level of expertise in this specific area in relation to the scope, its potential overlap with existing workplace health and safety laws, and considerations of what measures are reasonable and proportionate.</p>
<p>22. Regulatory approach and the role of the Commission</p> <p>Should the statutory framework be changed to incorporate a role in regulating compliance with the Anti-Discrimination Act and eliminating discrimination?</p> <p>If so, do you consider that the Commission should undertake this regulatory role, or is there a more appropriate entity? What are the strengths and limitations of the Commission undertaking a regulatory role?</p> <p>What should be the core components of the regulatory model, and what mechanisms and powers should it include?</p> <p>What key features should a regulatory approach adopt to ensure it achieves the right balance between supporting organisations to comply with the Act and ensuring organisations, particularly small and medium-sized entities, are not unnecessarily burdened with regulation?</p> <p>If you recommend an expansion of the Commission's functions and powers, what is the justification for this expansion?</p>	<p>Supported in principle</p>	<p>PeakCare is supportive in principle of the introduction of regulatory functions and roles with the Anti-Discrimination Act and note the importance of having an effective regulatory role in Queensland if a positive duty is introduced.</p> <p>We welcome the contributions of others who hold a greater level of expertise in this specific area in relation to the core components and key features required of a regulatory model, and where its function is best placed within Queensland's existing regulatory oversight bodies.</p>

DISCUSSION PAPER QUESTION	POSITION	EXPLANATION OF POSITION
<p>23. Role of the tribunals</p> <p>Should there be a specialist list for the tribunals?</p> <p>If so, what would the appropriate qualifications be for a tribunal decision-maker?</p> <p>Should a uniform set of procedural rules be developed to apply across both tribunals?</p> <p>Should the tribunals be required to publish all decisions/substantive decisions?</p> <p>Could data sharing be permitted and encouraged between Commission and tribunals to form a better overall picture?</p> <p>On what basis should the Commission be permitted to intervene in proceedings under the Anti-Discrimination Act. Should leave of the court or tribunal be required? Why or why not?</p> <p>What other issues relating to the functions, processes, power and outcomes of the Tribunals should be considered by the Review?</p>	<p>No position held</p>	<p>PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.</p>
NON-LEGISLATIVE MEASURES		
<p>24. What non-legislative measures are required to ensure protections under the law are available to everyone?</p>	<p>Supported</p>	<p>PeakCare strongly recommends greater investment by Government in advocacy services including peak bodies and consumer representative groups which are instrumental in connecting individuals with services and supports and improving the accessibility and awareness of available protections for all Queenslanders.</p>

DISCUSSION PAPER QUESTION	POSITION	EXPLANATION OF POSITION
GROUNDS OF DISCRIMINATION		
<p>25. Current attribute – impairment</p> <p>Should the attribute of impairment be replaced with disability?</p> <p>Should a separate attribute be created, or the definition amended to refer specifically to mental health or psychosocial disability?</p> <p>Should the law be clarified about whether it is intended to cover people who experience addiction?</p> <p>Should reliance on a guide, hearing or assistance dog be broadened to be reliance on an assistance animal? Should it only apply to animals accredited under law? How would this approach work with the Guide, Hearing and Assistance Dogs Act 2009?</p>	No position held	PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.
<p>26. Current attribute – gender identity</p> <p>Should there be a new definition of gender identity, and if so, what definition should be included in the Act?</p>	Supported	PeakCare supports the use of a more inclusive definition for gender identity aligned to the <i>Yogyakarta Principles</i> and reflective of recent amendments to the <i>Public Health Act 2005 (Qld)</i> .
<p>27. Current attribute – sexuality</p> <p>Should there be a new definition of sexuality, and if so, what definition should be included in the Act?</p>	Supported	PeakCare supports the use of a more inclusive definition for sexuality aligned to and reflective of recent amendments to the <i>Public Health Act 2005 (Qld)</i> .
<p>28. Current attribute – lawful sexual activity</p> <p>Should there be a new definition of lawful sexual activity, and if so, what definition should be included in the Act?</p> <p>Should the name of the attribute be changed, and if so, what should it be?</p>	Supported	<p>PeakCare supports amendment to a less restrictive definition of lawful sexual activity informed by the approach and learnings from Victoria and Tasmania and underpinned by a principle of enhancing the health, safety, and protections for sex workers.</p> <p>PeakCare notes the Queensland Law Reform Commission is currently considering the legislative and regulatory framework for sex workers and recommends the Commission consider how any updated definition will best align to this review.</p>

DISCUSSION PAPER QUESTION	POSITION	EXPLANATION OF POSITION
<p>29. Specific attributes</p> <p>Does the terminology used to describe any existing attributes need to be changed?</p> <p>For attributes that have a legislative definition in the Act, do those definitions need to change?</p> <p>For attributes that do not have a legislative definition, should a definition be introduced?</p> <p>Should the Act separately prohibit discrimination because a person with a disability requires adjustments for their care, assistance animal, or disability aid?</p>	<p>No position held</p>	<p>PeakCare does not hold any further positions on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.</p>
<p>30. Additional attributes – irrelevant criminal record, spent criminal record, and expunged homosexual conviction</p> <p>Is there a need to cover discrimination on the grounds of irrelevant criminal record, spent criminal record, or expunged homosexual conviction?</p> <p>How should any further attribute(s) be framed? Should they apply to all areas?</p> <p>What are some examples of how people who have had interactions with law enforcement experience discrimination, including by whom and in what settings?</p> <p>How would the inclusion of these attributes interact with the working with children checks (Blue Cards)?</p>	<p>Supported</p>	<p>PeakCare supports the inclusion of provisions that cover discrimination on the grounds of irrelevant criminal record, spent criminal record, and expunged homosexual convictions.</p> <p>PeakCare continues to hold concerns about the barriers created for Aboriginal and Torres Strait Islander peoples resulting from Queensland's current working with children screening rules and processes (Blue Card). Of particular concern is the impact of historic and irrelevant criminal records for Aboriginal and Torres Strait Islander people perpetuated by colonialist practices, systemic racism and discriminatory interventions.</p> <p>PeakCare has outlined our ongoing concerns in response to a number of recent parliamentary inquiries and would welcome the opportunity to share these with the Commission, where they can be of benefit in informing the development of these additional attributes.</p>
<p>31. Additional attributes – irrelevant medical record</p> <p>Is there a need for the Act to cover discrimination on the grounds of irrelevant medical record?</p>	<p>Supported</p>	<p>PeakCare supports the inclusion of an attribute that prohibits discrimination on the grounds of irrelevant medical records similar to the approach taken in Tasmania and the Northern Territory.</p>
<p>32. Additional attributes – immigration status</p> <p>Is there a need for the Act to cover discrimination on the grounds of immigration status? If so, should it stand alone or be added as another aspect of 'race'?</p>	<p>Supported</p>	<p>PeakCare supports the inclusion of an attribute that prohibits discrimination on the grounds of immigration status similar to the approach taken in Tasmania and the Northern Territory.</p>

DISCUSSION PAPER QUESTION	POSITION	EXPLANATION OF POSITION
<p>33. Additional attributes – employment activity</p> <p>Is there a need for the Act to cover discrimination on the grounds of employment activity? Is this an unnecessary duplication of protections under the Fair Work Act?</p>	No position held	PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.
<p>34. Additional attributes – physical features</p> <p>Is there a need for the Act to cover discrimination on the grounds of physical features?</p>	Supported	PeakCare supports the inclusion of an attribute that prohibits discrimination on the grounds of physical features drawing on approach and learnings from Victoria.
<p>35. Additional attributes – gender</p> <p>Should an additional attribute of 'gender' be introduced? Should it be defined, and if so, how?</p>	Supported	PeakCare supports the inclusion of gender as a protected attribute in Queensland.
<p>36. Additional attributes – sex characteristics</p> <p>Should an additional attribute of sex characteristics be introduced? Should it be defined, and if so, how?</p>	Supported	PeakCare supports the inclusion of sex characteristics as a protected attribute in Queensland and recommends consideration be given to how it is defined in the <i>Yogyakarta Principles plus 10</i> .
<p>37. Additional attributes – subjection to domestic violence</p> <p>Should an additional attribute of subjection to domestic violence be introduced? Should it be defined, and if so, how?</p>	Supported	PeakCare supports the inclusion of 'being subject to domestic or family violence' as a protected attribute in Queensland and recommends the Commission give consideration to how this can complement and enrich strategies (either in place or emerging) aimed at addressing domestic and family violence in Queensland.
<p>38. Additional attributes – accommodation status</p> <p>Should an additional attribute of accommodation status be introduced? Should it be defined, and if so, how?</p>	Supported	PeakCare supports the inclusion of an attribute that prohibits discrimination on the grounds of accommodation status drawing on the approach and learnings from the Australian Capital Territory.
<p>39. Additional attributes – other additional attributes</p> <p>Should any additional attributes, including those highlighted above, be included in the Act? If so, what evidence can you provide for why these attributes should be protected? How should they be defined? How would inclusion of the attribute promote the rights to equality and non-discrimination?</p>	No position held	PeakCare does not hold any further positions on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.

DISCUSSION PAPER QUESTION	POSITION	EXPLANATION OF POSITION
EXEMPTIONS		
<p>40. General exemptions – sport</p> <p>Should the sport exemption be retained, amended, or repealed?</p> <p>Should competitive sporting activity be more clearly defined?</p> <p>Is strength, stamina or physique the appropriate consideration when restricting access to competitive sporting activity based on sex, gender identity, and sex characteristics? If not, what would be an alternative test to ensure fairness and inclusion in sporting activities?</p>	No position held	PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.
<p>41. General exemptions - religious bodies</p> <p>Should the scope of the religious bodies' exemption be retained or changed?</p> <p>In what areas should exemptions for religious bodies apply, and in relation to which attributes?</p>	No position held	PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.
<p>42. General exemptions - religious bodies</p> <p>Should religious bodies be permitted to discriminate when providing services on behalf of the state such as aged care, child and adoption services, social services, accommodation and health services?</p>	Not supported	<p>PeakCare does not support any legislative provision that empowers or provides permission for religious bodies to discriminate when providing services on behalf of the state such as aged care, child and adoption services, social services, accommodation and health services.</p> <p>As stated in our introduction to this submission, PeakCare strongly believes legislation designed to prevent discrimination needs to appropriately protect the human rights of all people, regardless of their gender, age or sexuality. Legislation that enables religious organisations to discriminate on this basis, particularly when they are providing services on behalf of the State directly conflicts with this view.</p>
<p>43. General exemptions - religious bodies</p> <p>Should religious bodies be permitted to discriminate when providing accommodation on a commercial basis including holiday, residential and business premises?</p>	Not supported	<p>PeakCare does not support any legislative provision that empowers or provides permission for religious bodies to discriminate when providing accommodation on a commercial basis including holiday, residential and business premises.</p> <p>As stated in our introduction to this submission, PeakCare strongly believes legislation designed to prevent discrimination needs to appropriately protect the human rights of all people, regardless of their gender, age or sexuality. Legislation that enables religious organisations to discriminate on this basis conflicts with this view.</p>

DISCUSSION PAPER QUESTION	POSITION	EXPLANATION OF POSITION
<p>44. Work exemptions – religious educational institutions Should the religious educational institutions and other bodies exemption be retained, changed, or repealed? If retained, how should the exemption be framed, and should further attributes be removed from the scope (currently it does not apply to age, race, or impairment)?</p>	Supported	PeakCare supports the repeal of this exemption and recommends the Commission give consideration to the approach and learnings from the Australian Capital Territory and Tasmania.
<p>45. Work exemptions – working with children Are there reasons why the work with children exemption should not be repealed?</p>	Supported	PeakCare supports the repeal of this exemption. We agree with the Commission's conclusion that the provision perpetuates an offensive stereotype that sex workers, transgender or intersex people pose inherent risks to children which is not aligned with contemporary community attitudes.
<p>46. Goods and services exemption – assisted reproductive technology Are there reasons why the Act should not apply to provision of assisted reproductive technology services?</p>	Supported	PeakCare supports the repeal of this exemption which unfairly permits discrimination towards people seeking assisted reproductive technology services on the grounds of sexuality and relationship status.
<p>47. Accommodation exemption – sex workers Should the sex worker accommodation exemption be retained, changed or repealed?</p>	Supported	PeakCare supports the repeal of this exemption. PeakCare notes the Queensland Law Reform Commission is currently considering the legislative and regulatory framework for sex workers and recommends the Commission consider how the repeal of this exemption best aligns to this review.
<p>48. State laws and programs – prisoners Should the Corrective Services Act modifications be retained, changed or repealed?</p>	Supported	PeakCare supports the repeal of this exemption which creates disproportionate barriers for prisoners seeking to make a complaint.
<p>49. State laws and programs – citizenship and visa status Should the citizenship/visa status exemption be retained, changed, or repealed? Are there certain groups in Queensland that are being unreasonably disadvantaged by this exemption?</p>	Supported	PeakCare supports the repeal of this exemption as a means of reducing barriers and improving equitable access to services and supports for all members of the Queensland community.
<p>50. Superannuation and insurance Should the insurance and superannuation exemptions be retained or changed?</p>	Supported	PeakCare supports the repeal of this exemption which creates barriers to equitable access and could result in deterring people from seeking appropriate support for health-related issues including mental illness.

DISCUSSION PAPER QUESTION	POSITION	EXPLANATION OF POSITION
<p>51. Other exemptions Should any other exemptions be changed or repealed? What evidence justifies the continued need for these exemptions? Should further exemptions be created? What evidence justifies the need for further exemptions?</p>	No position held	PeakCare does not hold any further positions on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.
AREAS OF ACTIVITY		
<p>52. Goods and services Should the definition of goods and services that excludes non-profit goods and service providers be retained or changed? Should any goods and services providers be exempt from discrimination, and if so, what should the appropriate threshold be?</p>	No position held	PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.
<p>53. Club memberships and affairs How should the Act define a 'club'? How would this interact with a potential further 'sport' area of activity?</p>	No position held	PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.
<p>54. Sport Should a separate area of activity for sport be created? What are examples of where the sport area would cover situations not already covered in other areas? What exemptions should apply (if any) to sport if, it was to become a new protected area of activity?</p>	No position held	PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.
<p>55. Other areas of activity Are any additional areas of activity required? Should any be repealed? Should the scope of any of the areas of activity be further refined?</p>	No position held	PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.
HUMAN RIGHTS ANALYSIS		
<p>56. Are any provisions in the Anti-Discrimination Act incompatible with human rights? Are there any restrictions on rights that cannot be justified because they are unreasonable, unnecessary or disproportionate? Where rights are being limited to meet a legitimate purpose, are there any less restrictive and reasonably available ways to achieve that purpose?</p>	No position held	PeakCare does not hold a position on this issue and welcomes the contributions of others who hold a greater level of expertise in this specific area.

CONCLUSION

PeakCare commends the efforts of the Commission in bringing together a well-considered, comprehensive and balanced Discussion Paper. We hope that our submission is of assistance in guiding the Commission's considerations and look forward to hearing updates on the progress of this important work. If you have any questions or would like any further information, please contact Thomas Allsop, Principal Advisor, PeakCare Qld at tallsop@peakcare.org.au.

Thank you for the opportunity to provide a submission on the Queensland Human Rights Commission's *Discussion Paper on the Review of Queensland's Anti-Discrimination Act*.

Yours sincerely,



Lindsay Wegener
Executive Director
PeakCare Queensland Incorporated
(Pronouns: he/his)