

10/5/24

Committee on Community Services  
Attention: Rohan Tyler  
Director, Scrutiny & Engagement  
communityservices@parliament.nsw.gov.au

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Re: Equality Legislation Amendment (LGBTIQA+) Bill 2023 – Transcript of evidence and Questions on Notice

Dear Rohan,

Thank you for providing the transcript of evidence from our appearance before the Committee on 1 May 2024.

I provide the following responses to the questions taken on notice (QoNs):

**QoN 1: Ms Donna Davis: Can you explain how the amendments to the Sheriff Act that relate to the Anti-Discrimination Act and personal searches may conflict with the need to ensure safety and good order? What are the specific operational conflicts that could arise?**

The functions of the Sheriff include, but are not limited to, providing for the safety and security of courts and tribunals and undertaking civil law enforcement. Operational challenges may arise in the execution of these functions in circumstances where, for example a person is required to undertake a search:

- upon entering a court premise, or
- during the execution of an arrest warrant for civil law enforcement.

In these circumstances, a Sheriff's officer may be frustrated from undertaking executing their duty, should a particular sheriff's officer be unavailable to undertake that search.

**QoN 2: Ms Trish Doyle: I have been reading through schedules 12 and 13 and I'm wondering if you can expand on your reasoning in the submission, which states that the amendments to the Government Sector Employment Act are not legally necessary. Further to that, you talk about undertaking further enhancements of the PMES survey. How?**

As set out in the submission, the proposed amendments may not be legally necessary as the definition of workforce diversity is already expressed to be non-exhaustive, and the Public Service Commissioner already has a power to give a direction to the head of a government sector agency in relation to a specific matter in relation to employees of that agency. Further, the proposed amendment to the rules is not legally necessary as the definition of eligible person provides that eligible person includes a person who belongs to a group of persons designated by the Commissioner as being disadvantaged in employment. Government sector employment rules are

made by the Commissioner (and not by Parliament), and the Commissioner has the power to amend or repeal a government sector employment rule by a further rule.

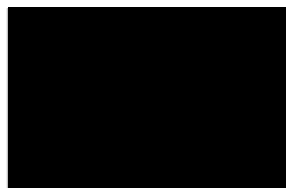
In terms of enhancements to the PMES survey, the PSC intends to include questions in the 2024 PMES related to “gender identity”, “variations of sex characteristics” and “sexual orientation” to align with the ABS standard. The survey is anonymous and reporting deidentified. The questions are optional and have a “prefer not to say” response option. The ABS intends to include gender identity, variations of sex characteristics and sexual orientation in the 2026 census. These steps will allow the PSC to start to understand the profile of these cohorts in the public sector workforce in preparation for the release of the ABS census data to support opt-in reporting for these groups from the Workforce Profile.

**QoN 3: MS Donna Davis: My question is about schedule 20, which is the last section in your submission. How could the proposed repeal of section 67A (2) of the Workers Compensation Act potentially impact historical claims?**

Section 67A was introduced into the *Workers Compensation Act 1987* in 1995 when the former provisions for lump sum compensation, determined by reference to the table of disabilities, applied. Section 68 had a role then with respect to the proportionate loss of use of a body part identified in the table of disabilities.

Assorted changes mean that section 67A(2) is applicable to injuries incurred between 1995 and 2001 (where the old table of disability provisions would still apply). While the chance of such claims still being open and injuries not yet claimed are remote, they are still a technical possibility.

Sincerely,



**Stephen Bray**  
Director, Civil Justice, Vulnerable Communities and Inclusion  
Policy Reform and Legislation  
Department of Communities and Justice