

Presentation to Human Rights Commission: Same Sex Same Entitlements Enquiry

Melbourne hearings: Wed 27th September 2007

My partner is from the USA and I am from the UK. When he was transferred to Australia by his company more than ten years ago, on a working visa, I was not allowed to come with him as his spouse despite the fact that we had been together for three years.

Because we are not a young couple - I am 56 this year, my partner 53 - I had great difficulty in getting a visa in my own right.

For more than five years I was unable to work, and had to leave the country regularly, never knowing if I would be allowed back, before we finally gained permanent residence and eventually citizenship.

If our relationship had been recognized at the outset, as a heterosexual marriage would have been, none of this would have happened. I might, for example, still have my own superannuation fund, instead of having to rely on my partners.

The government has sought to address this and one or two minor issues by recognizing same-sex couples in certain very limited circumstances as interdependent, but that is still fraught with problems.

This is why.

If you get married, you get a piece of paper that says x and y are married.

That's it.

If you need to prove your relationship for any reason – to the local council, the state government, the federal government, an insurance company, a telephone, gas or electricity company, you show them the one piece of paper.

End of story.

But as a gay couple there's no simple way to prove an interdependent relationship exists.

Let me explain what we had to do to convince the Department of Immigration that we were a couple.

We had to provide:

Proof of shared finances: let's take one example - joint bank accounts

Not every couple can provide that. You may not want to have a joint bank account, or it may not be feasible for business or taxation reasons – but if you don't, it counts against you in assessing your interdependence. How many heterosexual couples maintain separate bank accounts and share expenses?

Proof of shared living arrangements, such as joint ownership or tenancy: again, may be difficult to provide. What if one of you owned the house before you moved in together? What if one of you is a high-income earner and the other is the homemaker?

What if, for whatever reason, you are unable to live together full-time?

During our early years here, while we were fighting to be allowed to stay together, my partner was temporarily seconded to a subsidiary in Switzerland for three months. We had to provide DIMIA with proof – in the form of telephone records, letters, whatever – that we had kept in close constant contact. During periods of separation you have to provide proof that you maintain regular communication.

Do you and your partner ever take separate holidays? That counts against you too. The government may ask for travel and hotel bills proving the two of you holiday together – even holiday snaps. Make sure you ask someone to photograph the two of you together.

Are you not out to family and friends? Well tough, because the government can ask for sworn statements from relatives and friends in good standing in the community that you are known as and present yourselves as a couple.

Is your will made out in favour of your partner? Is he the named beneficiary for your superannuation death benefits? Have you signed medical powers of attorney for one another? They want to see those, too.

If you can't provide enough documentary evidence, or if DIMIA finds it unconvincing, you may be interviewed, separately, by DIMIA officials. Then it's the luck of the draw.

You may talk to a sympathetic officer who can see from the material you've provided that you're a couple.

Or you may draw a suspicious and unsympathetic individual who will ask you lots of very personal questions, like What side of the bed do you sleep on? What do you keep on your nightstand? What's on his? What's his favourite food and sometimes even more personal questions.

Eventually, after all that, you may be declared an interdependent partner, and presto! You're in.

You are accepted as someone's heterosexual partner if you can provide ONE piece of paper – a marriage certificate. To prove our interdependency took a blizzard of paper – bank statements, phone bills, rent receipts, credit card statements, letters, airline tickets, hotel and restaurant bills etc. etc. - and a major intrusion into our private life.

Now, of course, I could walk down the road to the British Consulate and enter into a UK Civil Partnership, and get one piece of paper. I could go to Canada and marry my partner and get one piece of paper. But it wouldn't do any good – neither would mean anything here.

And even after all that, neither of us can, as the current law stands, be granted full superannuation rights as a spouse, such as a survivor pension. Nor can we split our income to improve my superannuation position.

We are not entitled to any spousal benefits from employers, such as discounted health insurance or subsidised travel and accommodation offered to accompanying spouses on business trips.

We must purchase our own private health insurance. We must pay taxes as two singles - we are not entitled to any of the allowances available to couples.

In short, we pay more for everything, and receive less. And despite paying very large amounts of tax, superannuation and compulsory surcharge - my partner is in the highest tax bracket - we have no certain prospect of a reasonable retirement.

We're not asking for any special treatment, merely equal treatment with our heterosexual counterparts. And the simplest and fairest way to achieve that is to recognize us for what we are - a hardworking, taxpaying, self-supporting middle-aged married couple.

We came to Australia expecting to get a fair go. We're still expecting to get a fair go – but we don't have it yet.

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