

14 November 2013

The Director
Criminal Law Review
NSW Department of Attorney General and Justice
GPO Box 6
Sydney
NSW 2001
(via email ProvocationReform@agd.nsw.gov.au)

Dear Director

Re: Reform of the Partial Defence of Provocation

ACON is New South Wales' leading health promotion organisation specialising in HIV and lesbian, gay, bisexual, trans* and intersex (LGBTI) health.

ACON is home to the Lesbian and Gay Anti-Violence Project (AVP) which delivers an annual average of 500 occasions of services in relation to support and referrals for victims of violence. The AVP also works with partners in NSW such as the NSW Police Force, local councils, Local Health Districts, community groups, sector networks and educators to prevent violence and homophobic abuse.

We have long argued for the removal of the Homosexual Advance Defence (HAD) - the phenomenon that is the use of the partial defence of provocation in cases that involve an allegation of sexual advance by a member of the same sex. This use of the partial defence of provocation in cases of non-violent sexual advance is out-dated and homophobic. We have argued this for some time, most recently in our submission to the NSW Legislative Council Provocation Committee Inquiry into the partial defence of provocation in August 2012.

We note that the draft Crimes Amendment (Provocation) Bill 2013 (the Bill) differs from the recommendations of the NSW Legislative Council Provocation Committee. However we support the draft Bill as it appears to be in line with the recommendations of the committee and we believe it will achieve the removal of the HAD.

This is an important issue for our communities and we support the drafting of the Bill and urge the Government to promptly introduce and pass the Bill.

If you have any questions or would like further information please contact me on 02 9206 2122 or email nparkhill@acon.org.au.

Yours sincerely



Nicolas Parkhill
Chief Executive Officer

courage ● empathy ● diversity ● equality ● partnership ● community

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