26 January 2022

Senator the Hon Sarah Henderson
Chair
Standing Committee on Legal and Constitutional Affairs
via email: legcon.sen@aph.gov.au

Dear Senator Henderson

RE: Inquiry into Religious Discrimination Bill 2021 and related legislation

Following our submission to this inquiry we appeared to give evidence to the Committee on Thursday 20 January 2022. We have responded below to the questions taken on notice during that appearance or provided subsequently by the Committee secretariat.

1. Question from Senator Rice

How many staff in your schools have been fired because their beliefs changed on issues that were not related to sexuality or gender identity?

If you're able to provide subsets, how many were in roles that involved religious education? How many were in roles that did not involve religious education?

It is important for the Committee to understand the nature of our member schools. As indicated in our submission '[m]ember schools of CSA operate as independent, locally governed, religious organisations'. We do not operate as a system of schools and do not directly have access to employment data.

However, since receiving the question we have sought information from member schools regarding these issues, this is also supplemented by knowledge of situations where CSA has provided assistance or support to a school in a particular matter. While complete data was not able to be collected in the short timeframe involved the responses received are representative of the broader membership, and we suggest likely to be representative of the Christian school sector as we understand it.

The data suggests that over the last two decades there would be on average only 2-3 incidents per annum where there has been an employment separation, termination or resignation, involving matters of belief. A significant minority of respondents, around a quarter, reporting no such incidents.

Principals commented that anecdotal evidence suggested that the clear communication of the values and beliefs of the school community through the appointment process assisted in ensuring an alignment of belief at that point.

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Over this time only five within the responses were identified where the separation related to beliefs, or conduct reflecting beliefs, in relation to same-sex activity. These included Mrs Colvin, a heterosexual woman who changed her beliefs regarding same-sex marriage, another similar situation, and a staff member who resigned for ostensibly unrelated reasons where the school subsequently became aware it was related to his sexual orientation. It does not include a situation where a staff member subject to disciplinary procedures for general performance resigned but was later understood to be claiming they were forced to do so because of their sexual orientation, which was not known to the school.

Across the same timeframe around 28 staff members were identified within the responses who were ultimately terminated or resigned as a result of heterosexual sexual activity outside marriage after the usual process of seeking restoration and correction of the situation was unsuccessful. Counselling and pastoral support provided by schools prior to disciplinary action proved successful in resolving an additional four situations.

In addition to these matters, a further eight situations were identified in the responses where the separation related to beliefs, or conduct reflecting beliefs including relating to:

- Accessing pornography,
- A dispute with the school regarding the authority of the Bible,
- Promotion of a particular Pentecostal practice, 'speaking in tongues', in a school with a broader Evangelical faith position,
- Differences of belief regarding the role of woman in leadership,
- Promotion of abortion and euthanasia as consistent with Biblical standards, in conflict with the position of the school, and
- Abandonment of their faith by staff.

Encouragingly in at least one of the situations where a staff member abandoned their faith ongoing support by school staff allowed this situation to be turned around, the staff member re-embracing their faith and returning to actively serve within the school. Unfortunately, in most cases where differences in beliefs are identified ongoing support offered by the school is rejected by the staff involved.

Given the nature of member schools as outlined in the submission to the Committee all these roles would be considered by the school to be related to the faith formation of students.

The data clearly demonstrates **the consistent practice of schools in applying expectations** regarding alignment of the beliefs of staff with those of the wider school community.

The observations on the effectiveness of recruitment practices **supports the proposals within the Bill for policies to be made available** by schools – as is already the case.

The **small overall number** of matters involved clearly disproves the claims of some activists suggesting that a significant problem exists.

The examples of effective restoration, and in one case literal reinstatement, reflect **the genuine concern and care of Christian schools** towards all staff.

2. Question from Senator Bragg

What did Mr Spencer mean by your caveat that a child would need to conform with biblical views on sexuality? Would that mean you would wish to expel a child who is gay who wished to declare their sexual identity openly?

The interaction with Senator Bragg is recorded in the Proof Hansard as follows:

Senator BRAGG*: Finally—I'm just conscious of time—on the issue of the children in the schools, I understand that there was some discussion earlier about the different clauses that may or may not be considered by this parliament. My question is really more on the principle here, which is: do you want to have a right in the law to expel gay kids?*

Mr Spencer*: Again, you're making a sweeping statement there that needs a bit more nuance. For a start, you talk about gay kids. Are you talking about same-sex-attracted kids who might be committed to living a biblical authentic life? Are you talking about young people who may be, by their behaviour, not meeting the conduct standards of the school? There are a whole range of different scenarios in there that you need to be unpacking and considering. The short answer is: no, no child has been, and no child do we want to sack simply because they might be same-sex attracted.*

Senator BRAGG*: So your answer is no?*

Mr Spencer*: The answer is: no child do we want to expel simply because they're same-sex attracted.*

Senator BRAGG*: So that means that you wouldn't have any problem with amendments that gave effect to that?*

Mr Spencer*: What that means is that, when it comes through the ALRC's review of section 38(3), what we'll be looking to ensure, as we said to Senator Rice previously, is that we can continue to teach our faith and beliefs about gender and sexuality, amongst a whole range of other things, and be able to ensure that our school as a faith community can support those beliefs. Once we get the nuance around that and where the fine lines are there, we won't have any problems moving forward, if we can get there.*

Senator BRAGG*: Thank you.*

We note that the phrase 'a child would need to conform with biblical views on sexuality' is not one we used during our testimony, either in discussion with Senator Bragg or elsewhere, so it is rather difficult to explain the meaning behind that phrase. This is not a criticism of the Senator as he may not have had access to the Hansard.

It would certainly be the case that all students, regardless of any declared sexual orientation or gender identity if known by the school, are expected to adhere to the general behavioural and disciplinary standards of the school. These standards would reflect the Biblical beliefs of the school and the values and norms of behaviour derived from and reflecting those beliefs. In an age-appropriate way these would be applied consistently by the school, subject to consideration of the context and circumstances involved and the best interests of the child.

We look forward, in the Australian Law Reform Commission's consideration of section 38(3), of having the opportunity to expand in more detail on the practicalities and complexities of assisting and supporting young people seeking to develop their sense of identity, including their identity as sexed beings. These important issues are worthy of detailed and comprehensive consideration in their own forum.

Once again, we reiterate the comments of the Prime Minister in introducing the Bill to the House on 25 November:

> *"This bill is balanced and thoughtful. It does not take from the rights and freedoms of others.*
>
> *We do not seek to set one group of Australians against another, because to do so would diminish us all.*
>
> *It strengthens important freedoms that have been buffeted over recent years."*

We respectfully urge the Committee to focus on the substance of the bills before them and not be distracted by other matter which are already subject to a dedicated review process.