

19 November 2018

Senator Louise Pratt  
Chair  
Senate Legal and Constitutional Affairs References Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Emailed to [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Dear Senator Pratt,

*Legislative exemptions to anti-discrimination laws and schools with a religious affiliation – question on notice*

AHISA appreciates the opportunity to contribute to the Committee's deliberations on exemptions to anti-discrimination laws through participation in its public hearing on 19 November 2018.

Several witnesses were asked to reply to the question of how many schools they were aware of who had used exemptions under anti-discrimination laws in relation to students, staff or contractors.

AHISA does not have time to survey our membership to gain sufficient quality data to create an accurate record for the Committee. Anecdotal evidence, however, suggests – as does the testimony of the Independent Education Union of Australia at the hearing – that non-government schools rarely rely directly on exemptions under anti-discrimination laws.

At the same time, it is important to recognise, as a later witness to the hearing pointed out, that schools “cannot contract their way out of discrimination”. Section 352(2) of the *Fair Work Act* explicitly links the boundaries of what is described as “adverse action” on the part of employers to federal and state/territory anti-discrimination laws.

AHISA reiterates the point made in its submission to the Committee, that adequate time must be given to assessing the implications arising from proposed amendments to federal anti-discrimination and employment laws. The lack of evidence that current legislation has failed to protect the interests of students or school staff suggests there is time for such an assessment.

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Yours faithfully,

***(Ms) Beth Blackwood***

AHISA Chief Executive Officer