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Parliamentary Joint Committee on Human Rights  
Inquiry into Religious Discrimination Bill 2021 and related bills  
e [religionbills@aph.gov.au](mailto:religionbills@aph.gov.au)

**By email**

Dear Committee

## **JOINT PARLIAMENTARY COMMITTEE ON HUMAN RIGHTS INQUIRY INTO RELIGIOUS DISCRIMINATION BILL - RESPONSE TO QUESTIONS ON NOTICE**

Thank you for the opportunity to appear at witnesses before the Committee.

We provide the following responses to the questions taken on notice.

- 1. Senator Small: Please clarify your concerns about the Religious Discrimination Bill and its impact on state and territory laws relating to “conversion therapy”.**

We refer Senator Small to section 4(d) of our submission in this regard (pages 17-18).

Section 12(1)(c) of the Religious Discrimination Bill allows any law to be prescribed by regulation, such that certain statements of belief no longer constitute a contravention of that prescribed law.

Conversion practices which seek to suppress or change a person’s sexual orientation and gender identity cause grave harm to LGBTQ+ people. Conversion practices take many forms. They may include statements about the brokenness or sinfulness of a person, designed to encourage them to change or suppress their sexual orientation or gender identity.

Victoria has proposed comprehensive legislation addressing these practices in whatever form or context they may occur. The Victorian *Change or Suppression (Conversion) Practices Prohibition Act 2021 (Vic)* prohibits conversion practices through a range of prohibitions that can form the basis for individual complaints with the Victorian Equal Opportunity and Human Rights Commission. Not all of those prohibitions are criminal offences – section 9 of the Victorian Act is a civil prohibition.

If the Victorian *Change or Suppression (Conversion) Practices Prohibition Act 2021 (Vic)* were prescribed under section 12(1)(c), then a statement of belief which may today constitute a prohibited conversion practice for the purposes of that law may no longer do so.

- 2. Senator O’Neill: Should Catholic schools be free to be Catholic and should Jewish schools be free to be Jewish? if so, how would that look in legislation?**

Section 6(c) and (d) of our submission sets out our views on a better way forward on the issue of religious exemptions, based on the examples we have seen of these exemptions being misused by religious educational institutions – see in particular the cases of Rachel Colvin, Karen Pack and Steph Lentz, discussed in our submission (pages 26-29).

What those cases show is that it is deeply religious people, who have demonstrated their commitment to the school and colleges in which they teach, who have lost their jobs because of their sexuality or religious beliefs regarding sexuality. From our perspective, what makes a Catholic or Jewish school is much more than the ability to reject anyone who is LGBTQ+ or has affirming views towards LGBTIQ+ people. Members of these faith communities hold a diverse range of views on matters of sexuality, gender and relationships, and people of Catholic and Jewish faith should be allowed to reasonably and respectfully disagree with the views of their school on such personal matters without being removed or silenced. These people are *part* of, and not

separate to, these Catholic and Jewish school communities. Indeed, many Catholic and Jewish schools would welcome and celebrate those differences as part of the way in which they prepare their students for the real world in which they will live, work and contribute.

There are a number of domestic and overseas examples of laws that strike a better balance between the rights of faith-based educational institutions and the individuals who work or study within them. Some of these laws have different components that we consider to be better than others.

For example, in respect of employment, Victoria's laws are the strongest in protecting the rights of individuals to have religious beliefs that may differ from their employer. Victoria allows religious educational institutions to discriminate against staff on the basis of their religion where religion is an inherent requirement of the role and it is reasonable and proportionate in the circumstances.<sup>1</sup> The ACT, Tasmania and Queensland have similar exemptions, although the ACT and Tasmania exemptions are slightly looser in some respects.<sup>2</sup>

In respect of students, Queensland, Tasmania, the ACT and the Northern Territory allow discrimination on the basis of religion in respect of prospective students but forbid religious discrimination against students once they are enrolled.<sup>3</sup>

Our view is that religious educational institutions should be allowed to discriminate on the basis of religion to meet a legitimate religious need (such as dietary requirements, religious worship or practice), and when religion is relevant to the role in question and it is reasonable and proportionate in the circumstances. Once a student is admitted into a religious school, we do not think that religious educational institutions should be allowed to discriminate against a student based on their religion.

We also consider that religious educational institutions should not be allowed to discriminate against staff or students because of their sexuality or gender identity, or personal attributes such as marital status or pregnancy. This reflects the law in Victoria, Tasmania, the ACT and Queensland.<sup>4</sup>

**3. Senator O'Neill: Should a parent should be able to choose a school that reflects their values and beliefs? And if so, what would any amendment to this legislation look like that would deliver that freedom to parents (for example, who may or may not hold a view about marriage equality that aligns with Equality Australia)?**

No child should be denied a quality education in safety because of the views of their parents about any issue. Importantly, students do not choose which schools their parents enrol them in. That is why it is so crucial to ensure that, no matter what school a child is enrolled in, the school has a duty to provide a safe and non-discriminatory environment for them to learn in.

If a student is enrolled in a religious school and later changes their religious beliefs or comes out as LGBTIQ+, they should be entitled to study with respect and dignity – no matter what schooling choices their parents have made for them. Ultimately, the law must protect the best interests of a child to learn in an environment which supports and affirms them.

A parent's views about marriage should be irrelevant to the quality of education provided to a child. Schools have a duty to the welfare of their students and should provide an environment which ensures that a child is supported and affirmed, no matter who they are or may grow up to be.

That is why we do not support religious educational institutions having exceptions that allow them to lawfully discriminate against students based on any attribute, whether it is their sexuality, gender identity, or religious beliefs – or the sexuality, gender identity or religious beliefs of their parents.

To this end, our submission recommends amendments to the Religious Discrimination Bill and *Sex Discrimination Act*: see recommendations 4, 5(d) and 9 in our submission.

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<sup>1</sup> *Equal Opportunity (Religious Exceptions) Amendment Act 2021* (Vic).

<sup>2</sup> *Anti-Discrimination Act 1991* (Qld), s 25; *Anti-Discrimination Act 1998* (Tas), s 51; *Discrimination Act 1991* (ACT), s 46(2).

<sup>3</sup> *Anti-Discrimination Act 1991* (Qld), s 41; *Anti-Discrimination Act 1998* (Tas), s 51A; *Discrimination Act 1991* (ACT), s 46(1) and *Anti-Discrimination Act 1992* (NT), s 30(2).

<sup>4</sup> *Equal Opportunity (Religious Exceptions) Amendment Act 2021* (Vic); *Anti-Discrimination Act 1991* (Qld), s 109(2); *Discrimination Act 1991* (ACT), ss 32(1)(d) and (2). There are no exceptions in Tasmanian law.

4. **Dr Webster: What role did Equality Australia play in advocating for the Victorian bill?**

Equality Australia supported the passage of the *Equal Opportunity (Religious Exceptions) Amendment Act 2021* (Vic) and we were proud to do so on behalf of our community.

Anna Brown served as a member of the Justice Working-Group of the Victorian Government's LGBTIQ Taskforce for a number of years, and in that role provided advice regarding the importance of reforming Victoria's *Equal Opportunity Act 2010* (Vic) including the narrowing of religious exceptions that allow discrimination on the basis of sexual orientation and gender identity.

Along with other groups and individuals, Equality Australia was invited by the Victorian Government to participate in consultations and meetings on the proposed Bill. We provided feedback and suggestions to ways in which the proposal could be improved. We supported individuals who had experienced discrimination within religious organisations to tell their stories publicly or privately with the Government, MPs and broader public. We provided materials to our supporters on the proposed reforms and encouraged them to write to MPs. We wrote and met with MPs across the political spectrum with our views on the Bill, including ways that the Bill could be improved. We also worked together with a number of other individuals and organisations such as the Victorian Pride Lobby and Independent Education Union Victoria Tasmania.

We were delighted to see the reforms pass the Victorian Legislative Council with the support of an overwhelming majority of MLCs, 22 for and 12 against.

**Clarification of evidence**

We also wish to clarify one aspect of the evidence provided by Ghassan Kassisieh. We were asked (at page 70 of the transcript) our views regarding the protection for lawful religious activities. In response, I stated that we would "*welcome the removal of sections like section 12 or **section 10, I think it is, that actually override laws that would make it unlawful to discriminate***". The reference to section 10 in that statement should be a reference to section 11.

Yours sincerely,



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