

Religious Discrimination Bill 2021 [Provisions]

Attorney-General's Department

Hearing date: 21 January 2022

Hansard page: 70-71

Paul Scarr asked the following question:

Senator SCARR: In addition to the table, I'm interested in the department's view, given what the federal Criminal Code says, as to whether or not there's a lacuna or a gap here in terms of the sort of speech. We had very moving testimony from Ms Jabri Markwell, and I refer you to the submission from the Australian Muslim Advocacy Network. I'm interested to know whether or not there's a gap here in the law. You referred to the hate crime law, the hate speech law, as being patchy. My concern is: is it so patchy that certain elements of our society aren't protected by it at the moment, and does the patchiness need to be evened out? That really goes to the nub of the issue. Does that make sense?

Mr Walter: Yes. I completely understand. We will do that. We'll also need to consult with our colleagues in the Department of Home Affairs, who have more general responsibility for these types of issues, so we'll do that.

The response to the question is as follows:

The Commonwealth Criminal Code contains a range of offences that may target this behaviour including prohibitions on the use of a carriage, postal or similar service to menace, harass and cause offence, and general anti-vilification offences.

In addition, the *Online Safety Act 2021* introduced new schemes to help Australians that are subjected to cyber bullying and abuse, including new powers for the eSafety Commissioner to address this behaviour. For example, a new adult cyber abuse scheme allows Australians to report to the eSafety Commissioner to request the take-down of serious cyber abuse material that is menacing, harassing or offensive and has the intended effect of causing serious distress or harm.

The eSafety Commissioner also has a range of powers that may be relevant, depending on the facts and circumstances of the case, including to investigate complaints of harmful online content and assist in getting that content removed in certain circumstances.