



27 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.

Question from Senator O'Neill

Do you have a view on Professor Aroney's recommended amendments around section 11 and 12? Can you provide perspective on where Professor Aroney's and Professor Twomey's views intersect?

ACHEA recognises and respects Professor Aroney's expertise in the area of religious freedom and constitutional law, and therefore would provide full support for his recommendations for addressing the concerns raised by Professor Twomey about the constitutional challenges for sections 11 and 12 of the bill.

Question from Senator O'Neill

What is the difference between ethos and belief in employment in schools?

Extending this question to not just schools but the higher education sphere, ACHEA suggests there is clearly overlap between ethos and belief. Merriam Webster Dictionary defines "ethos" as:

the distinguishing character, sentiment, moral nature, or guiding beliefs of a person, group, or institution

Likewise in the Cambridge English dictionary:

the set of beliefs, ideas, etc. about the social behavior and relationships of a person or group:

- *national ethos*
- *working-class ethos*
- The ethos of the traditional family firm is being threatened.

Ethos includes the beliefs of a religion being lived out – behaviours, relationships, actions in life within communities (including work). It's not just a code of conduct.

“...ethos is quite different from religious instruction, because it offers a shape to the life of a school which is formed and sustained by specific values. These pervade and proof how people behave towards one another and how they exercise the opportunities to think with responsibility and to form opinion with integrity, in the particular context which education affords.”¹

Dr. Alex Deagon, in his transcribed speech in the hearing, captures the sentiment well:

“Part of having a religion for many people is being able to externally express it through worship, prayer and publicly interacting with people in a public context and not hiding who you are as a religious person. It's also unique in the sense that being religious or having a religion or practising a religion entails practising or manifesting in community with others, and our international law recognises this through, for example, article 18 of the ICCPR. So part of being a religious organisation with a religious ethos means that some organisations may wish to develop that ethos through having staff who consistently adhere to the beliefs and the conduct standards of that organisation. Religious organisations with a particular religious ethos are obviously going to have a different view about what that ethos means compared to different religions or to secular organisations....

The religion is in the best position to determine what their ethos is in terms of its content and also what it requires in terms of adherence by staff. Take the example of the maths teacher or the gardener. For some organisations, it won't matter whether the maths teacher or the gardener is particularly religious, but, for other organisations, they're developing a culture where everyone in that culture needs to adhere to that ethos and to model it to the school's student body and to the broader community organisation. So the maths teacher can teach the beauty and the precision of God's creation, from that perspective, through looking at

¹ P.74, Jackson, M. (2019). Faith-based Education and Religious Ethos – Some Reflections. *Studies: An Irish Quarterly Review*, 108(429), 74–83.
<https://www.jstor.org/stable/10.35939/studiesirishrev.108.429.0074>

mathematics. The gardener can teach the care and cultivation of God's creation through the way they take care of the grounds. So it's not a case of making a distinction between secular teachers and religious teachers in a religious school setting. For certain religious schools, everyone is part of that religion and must consistently model that religion to produce a consistent ethos."

Question from Senator Bragg

Was Karen Pack teaching against the theology of Morling College?

Karen Pack was teaching in the Chaplaincy and Spiritual care program at Morling College before the question of her ongoing employment was raised. All staff at Morling are required to uphold the ethos and beliefs of the college, as outlined in the code of conduct. Morling understands the concept of teaching as a holistic combination of instruction, pastoral responsibility, character, and orthodox Christian spirituality which guides students in faith and knowledge.

The leadership team of Morling had no reason to assume that Karen verbally taught to students a view of marriage and sexuality that was inconsistent with the policies that were part of her employment contact. Karen Pack asked for a meeting with the Principal where she indicated her position on marriage had changed and she was going to marry someone of the same gender. It was evident that this information was understandably becoming public. She indicated she could no longer hold to certain theological positions. Only then were discussions entered into about Karen's ongoing employment.

If further details are required on this question, particularly in light of claims made by Karen Pack in giving the committee evidence, then an extension and further clarification would be required.

ACHEA thanks the committee for its questions, and its work in this important legislation.

Dr Jeannie Trudel

Chair of ACHEA/

Nick Jensen

Political Liaison for ACHEA and



President of Christian Heritage College

Alphacrucis College