Religious Discrimination Bill – Exposure Draft

Your Submission

We acknowledge the effort that has gone into the preparation of the exposure draft of the Religious Discrimination Bill in accordance with the recommendations of the Religious Freedom Review. We recognise the divergent stakeholder views makes it difficult to achieve a practical balance that enhances protection of the right to freedom of religion while at the same time limiting unintended consequences. It is this latter issue that is the main subject of this submission.

The Act expressly allows Religious Bodies to act in accordance with their faith, stating that "A religious body does not discriminate against a person under this Act by engaging, in good faith, in conduct that may reasonably be regarded as being in accordance with the doctrines, tenets, beliefs or teaching of the religion in relation to which the religious body is conducted" (see 10 (1)).

For the purposes of the Act, a Religious Body is defined as... "a registered charity that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion, other than a registered charity that engages solely or primarily in commercial activities (see 10 (2) (b)).

As currently defined, faith-based private health and aged care services are considered to be primarily commercial activities and are therefore excluded from the definition of a Religious Body. We believe this will have unintended consequences on the way we operate.

In the past, the presence of Catholic religious sisters clearly identified organisations like ours as Catholic. We who are charged with continuing the Sisters' mission today aspire to operate as they did, expressing our Catholic identity in our care for patients and residents, in our business practices and through participation in prayer and liturgy - even though many of us do not share the same faith tradition. If we are unable to integrate our Catholic identity in this way, we would no longer be recognised by the Catholic Church as a Catholic institution.

We propose the definition of Religious Body is expanded to include charities recognised a Public Benevolent Institutions. A Public Benevolent Institution is a category ('subtype') of charity that works to relieve poverty, sickness, suffering, distress, misfortune, disability or helplessness. This will enable Catholic charities involved in health, aged and disability services to operate in accordance with their constitutions while at the same time excluding faith-based activities that are purely of commercial nature, as we understand is the intent.

We also request further consideration in relation to disposal of land (see 22). As a Catholic charity, our assets are considered property of the Church and are governed by Canon Law statutes on the alienation of property. Before assets above a specified value can be sold, we are required to consult with the local bishop and may require permission of the Holy See. Permission may be accompanied by conditions for a preferred purchaser, for example, another Catholic facility. According to the wording in the exposure draft, this may be constituted as unlawful discrimination.