Religious Discrimination Bill – Exposure Draft

Your Submission

The Presbyterian Church of Australia in New South Wales (“PCNSW”) welcomes the invitation by the Government to offer comments on this Exposure Draft.

While many features of the Bill are very good, including provisions that seek to protect people of faith from discrimination in Commonwealth law, we are very concerned about the effect of the Bill on our religious mission and our staffing policies. In particular, we are writing to comment on the currently drafted exclusion of protections in paragraphs 10(2)(b) and (c) of the draft Bill from bodies that engage in “commercial activities”.

As Freedom for Faith states in its Submission (page 3): “There is an important distinction between those people whom an organisation serves and by whom those people are served. The great majority of faith-based aged care homes, child care centres and hospitals serve all who come to them for services that they provide; but in order to maintain the religious and cultural ethos of an organisation, it is necessary that the faith-based service provider has a right to prefer staff who practise the faith with which the organisation is associated and by which it is motivated.”

PCNSW is actively involved in delivering a range of educational, health, aged care and social services, including:

- Residential aged care and home care facilities and services
- Allowah Children’s Hospital, an acute care hospital for severely disabled children
- Three low-fee Christian schools – pre-kindergarten to Year 12
- Four independent schools – pre-kindergarten to Year 12
- Early Childhood Services for Pre-schools, Kindergartens and Childcare
- Mental health and wellbeing and counselling services
- Emergency relief & welfare

All these activities are owned and operated under the single Charitable Trust that was established by a New South Wales State Government statute in 1936 for the advancement of religion in accordance with the tenets of the Presbyterian Church of Australia.

No services provided by PCNSW are separately incorporated or operated outside the single Trust – all are operated as education, care, justice and mercy ministries of the Presbyterian Church in NSW.

We employ over 800 staff in aged and home care services, 125 staff at Allowah Children’s Hospital and in our health and welfare services, and over 1200 staff in seven schools.
All the above schools and aged and welfare services are supported partly or wholly by federal and/or state government grants and funding.

While the above activities may be deemed “commercial activities” in paragraphs 10(2)(b) and (c) of the draft Bill, all are not-for-profit and all are core to the charitable purpose of the Trust and PCNSW.

Although not-for-profit, these activities are required to be financially sustainable over the long term, not only to properly satisfy government that its funding for welfare and education is being applied sustainably, but also to provide confidence to parents, residents and other public users of our services over time.

In an increasingly competitive world for skilled employees, while the Church would prefer to employ only people who profess common faith in the doctrines of the Church, it is often not practically possible to do so.

Although difficult to achieve, it is important for the Presbyterian Church as part of its ministry objectives to continue to prefer to employ Christian employees. Should prospective employees not profess the Christian faith, it is important that they agree to uphold the values and ethos of the Presbyterian Church of Australia.

For example, while our aged and home care services operate commercially as defined under the Exposure Draft, the Mission of Presbyterian Aged Care is “to provide care and accommodation for older people, with a commitment to excellence inspired by the life and teachings of the Lord Jesus Christ.” A core stated value expressed in our advertising material is “the dignity and worth of every person created in God’s image.” Staff who have a professed Christian faith also have a desire to serve in a way that allows them to express that faith in the lives of others.

While framed to reflect those to whom we are serving, the Church’s faith mission and ethos is deeply imbedded in the values and culture of all our education, health and welfare services, irrespective of whether they are deemed to be “commercial activities” or not.

While none of our activities discriminate against students, parents, residents, customers or clients on a religious basis, we submit that it is crucial to our core charitable purpose to continue to apply a preference for employment of those who share our religious commitments.

While we appreciate that our low-fee Christian schools would be protected under Clause 10(2)(a), there has been some doubt expressed as to whether this protection would extend to one of our low-fee Christian schools in a regionally remote area having no choice but to employ a non-Christian staff member where no other Christian staff were available. The doubt arises as to whether a school which was not completely consistent with a policy to only employ Christian staff could rely on the clause.

This concern also extends to our independent schools, which would like to “prefer” those who are whole-hearted supporters of the Christian faith, but employ teachers and staff to meet a need where none can be found who believe in the Christian faith.

Accordingly, we submit that a “preference” policy is justifiable and necessary as an expression of the “doctrines, tenets or beliefs” of all PCNSW activities that are core to the charitable purpose of the Trust and the Presbyterian Church of Australia.

Yours sincerely,

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AND

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