Introduction

drummond street services is writing regarding the proposed new Religious Freedom reforms released by the government for consultation on Thursday 29 August 2019:

- Religious Discrimination Bill 2019
- Religious Discrimination (Consequential Amendments) Bill 2019
- Human Rights Legislation Amendment (Freedom of Religion) Bill 2019

drummond street services is deeply concerned about these proposed reforms. In particular, we refer to the impact of these reforms on our clients and their families who we provide support to every day, as well as our own workforce.

Our two key concerns from the Exposure Draft of the Religious Discrimination Bill (2019) include but are not limited to:

- Section 8(5)-(6) – conscientious objection in health care
- Section 41 – privileging religious objections over discrimination

drummond street is a proud employer of a diverse workforce, and we work closely with a range of population cohorts, many of whom belong to faith communities. Given our close working relationships with diverse communities of faith we agree in principle with prohibiting discrimination on the basis of religious belief or non-belief. However, we believe this Bill provides too broad and special protections which will impact negatively on community harmony and resilience. We are also alarmed at experts in religious freedom and constitutional law raising “significant constitutional doubt” about the bill’s provisions.

Our primary view is that drummond street is unable to support the passage of the Religious Freedom Reform Bills through parliament. At a minimum we recommend the above sections are removed. In addition, if the Bill goes ahead – these proposed reforms:

- require significant and thorough modeling to ensure they are at least complimentary to other existing federal discrimination laws protecting race, sex, disability and age
- should not override any existing protections for other groups under state laws
- be tested for compatibility with international law to ensure they are supported by the external affairs power in the constitution and provide “equal footing” to freedom of thought, conscience and religion.
About drummond street

Founded in 1887 as the Charity Organisation Society, then Citizen’s Welfare Service of Victoria (1947-1996), drummond street services is one of the longest serving welfare organisations in Victoria and was also one of the first welfare services in Australia. drummond street has a proud tradition of independence from church and state and has developed a distinctive and important role in advocating for all Victorian’s.

drummond street provides mental health and wellbeing services with a focus on whole-of-family early intervention, prevention and response which embodies our vision of ‘Promoting Wellbeing for Life’. Our commitment is to the provision of wellbeing supports early in life, during early onset of poor mental health, across a full spectrum of mental health interventions (and other interventions) known to improve the mental health, wellbeing and resilience of individuals, families and children.

Our work aims to:

- Reduce prevalence of mental health burden
- Address early risks of poor mental health outcomes
- Support families to access assistance, create and maintain positive family and parent-child relationships and home environments
- Support children and young people’s emotional wellbeing through pro-social, positive connections with family members, school and the wider community

Our community-based, family and community services are integrated with our mental health clinical therapeutic and support services and delivered through:

- Parenting and Community Support Programs
- Centralised, Whole-of-Family Intake, Information Referral and Brief Support Service
- Family Mental Health and Support Services

drummond street applies a public health approach and a social health determinants lens that underpins all of what we do. We use population-based, social health data and common life-course risk and protective factors across multiple well-being domains to map community needs and address negative preventable outcomes for our clients.

Over the past decade drummond street has been at the forefront of developing innovative responses to marginalised populations with complex trauma histories. These populations include children and adults with experiences of intimate partner/ family violence (IPFV) and sexual assault, refugee and humanitarian entrants, whole families where mental illness and comorbidities are present, LGBTIQ+ communities and institutional child sexual abuse victims.
1. **Section 8(5) and 8(6) of this Bill will enable exposure to discrimination for large sections of the community**

Drummond Street believe proposed sections 8(5) and 8(6) of the Bill would expose a large number of our clients and their families to exclusion by health practitioners who refuse them access to, and care from a wide range of health services.

Drummond Street services regularly refer our clients and their families to a broad range of health services for additional support in and around Victoria. We hold concerns regarding the impact of the quality and consistency of service delivery from providers or professionals in a range of fields/or settings.

Under this Bill in Section 5 (pgs.5 – 6) of the Exposure Draft, ‘health practitioner’ means a person who, under a law of a State or Territory, is registered or licensed to provide a health service. While health service means a service provided in the practice of any of the following health professions: (a) Aboriginal and Torres Strait Islander health practice; (b) dental (not including the professions of dental therapist, dental hygienist, dental prosthetist or oral health therapist); (c) medical; (d) medical radiation practice; (e) midwifery; (f) nursing; (g) occupational therapy; (h) optometry; (i) pharmacy; (j) physiotherapy; (k) podiatry; (l) psychology.

Drummond Street services are deeply concerned about the ramifications of Section 8(5) and 8(6) of this Bill. Drummond Street services believes these two aspects will:

- make it easier to offend, humiliate, intimidate, insult or ridicule population groups, such as women, (including those people who are pregnant or breastfeeding) people with disabilities, people of colour, Aboriginal and Torres Strait Islander peoples, LGBTIQ+ communities (including children and young people and those of differing religions.
- enable an environment where whole populations risk being refused appropriate and timely universal health care and other services such as a referral if services are refused to them
- create confusion about the rights of religious people/religious service users where providers of choice exclude them based on:
  - **having beliefs of a different faith** to that of the person/service user; or beliefs associated with a different denomination of similar/same faith.
  - **different views about what constitutes the appropriate expression and beliefs of a faith** even where that faith is shared by the service provider and the religious person/service user.

We fear the consequences for many of our clients will include vilification and/or harassment targeting a person’s family form (de-facto couples, divorced and/or single parents, child with single/divorced parents or parents from LGBTIQ+ communities), disability, faith and/or their sex, sexuality, gender
identity or even circumstances which make them vulnerable such as struggling with drug and alcohol addiction. We note this Bill also overrides section 18C of the Racial Discrimination Act, which prohibits speech that offends, insults or humiliates people based on race. This is deeply concerning as a large portion of our young clients seeking mental health support already struggle with the health and wellbeing impacts of exclusion due to racism.

The Bill creates additional service barriers for a range of already vulnerable groups

We remain deeply apprehensive about the implementation of these proposed changes as well as the short, medium and long-term impacts on the health and wellbeing of those people at the highest risk of being negatively impacted by them.

Awareness among cohorts of any right to refuse them a health service based on a health practitioner’s own religious views, will have a grave impact on many people already vulnerable to service barriers, and who have experienced histories of discrimination. drummond street believe this will lead to whole populations being reluctant to even seek services where they may be limited service options (such as in rural and regional areas, or in the case of a need for specialised services).

Implementation of this Bill creates impractical inconsistencies for employers

drummond street services is concerned prioritising people with religious views will be at the expense of other staff and clients we work alongside. Section 41 of the Bill overrides existing federal, state and territory protections against discrimination. Section 41 of the Bill provides ‘statements of belief’ are exempt from discrimination complaints under all Commonwealth, State and Territory anti-discrimination laws including the Fair Work Act 2009, providing the person makes them ‘in good faith’.

We are concerned to see the term “may reasonably be regarded” in section 10 and note the extremely broad definition of “statement of belief” in relation to the tenets of a religion. This is inconsistent with the approach in Section 37 of the Sex Discrimination Act 1984 (Cth) for example. Some have already noted a Sex Discrimination Act provision which states some religious acts are not discrimination. However, this provision in the Sex Discrimination Act requires a religious body’s act to “conform to” the beliefs of the religion or be “necessary” to avoid injury to religious sensibilities.

It appears clear that the wording ‘may reasonably be regarded’ in this Bill, is a broader protection than available to religious bodies under other religious exemption legislation ii. No rationale has been provided for this difference despite it more easily enabling objections to provide goods and services. Some are alarmed that Section 10 is drafted so widely it could allow religiously affiliated charities to refuse to assist people of a different faith or of no faith.

Section 8 prohibits any rule or conduct imposed by an employer on a health practitioner that would require them to perform services to which they have a religious objection. This could allow doctors to refuse to perform abortions or to provide services to LGBTIQ+ patients ii. Psychology is also included in the scope of this Bill and we remain concerned about our ability to provide consistent mental health
services where we need to work collaboratively with a range of allied health professional to support
highly vulnerable clients.

While the explanatory notes indicate the intention for the Bill reforms to cover traditional religions -
Judaism, Islam, Christianity etc. there seems no impediment for the Bill to cover obscure beliefs or
prevent the appropriation of religiosity to justify discriminatory views.

We note there lies assumption in the Bill that financial considerations are the only legitimate reason to
create a code of conduct. However, many health and human service organisations are fully aware of
the direct links between harmonious workplaces and staff health and wellbeing. Section 41 will result
in an inability for many of these organisations to introduce Codes of Conduct which are enforceable to
promote the values of diversity and inclusion, despite evidence demonstrating positive outcomes for
health and productivity when these values are consistently encouraged.

As a service provider these issues beg questions within the context of laws pertaining to duty of care
and child protection such as:

- what expectations would there be for a health service to alert organisations who refer at-risk
  or high-risk clients to them that a staff member may conscientiously object to treating a
  person and their family?
- will health services be required to advertise they have members of staff with religious
  limitations to supporting particular groups of people?
- how will care be assured for all community members in areas where service supply is small,
  practitioners limited (such as in suicide prevention and mental health services in rural areas)
  and in the case of medical emergencies?
- how will government guarantee secular services are available?
- how will government ensure the consistent reporting of child abuse by professionals of faith
  even where this action would contravene the authority of leading figures in religious
  institutions?

In relation to the last point above, our involvement in the Royal Commission into Institutional
Responses to Child Sexual Abuse and the subsequent National Redress Scheme has built on drummond
street’s solid knowledge in best practice and the needs of people who experience the impacts of
complex trauma. We know a lot more needs to be done to restore trust in the hearts of many victims
of severe childhood abuse by religious institutions, many who experience lifelong primary and
secondary impacts of this abuse and need ongoing social and human service supports. We believe this
Bill is insensitive and problematic where an extension of rights are afforded to institutions signed up to
the Redress scheme which enable them to exclude victims.

A significant amount of state and federal funding and grants require collaborative service design and
delivery partnerships. Conscientious objection to groups of clients in this context creates
Inconsistencies in the enaction of service, program and organisational principles, and would require a significant amount of support outside the ordinary parameters of most funding agreements to keep service provision equal for all service users.

In conclusion, Drummond Street believes the ambiguity of these Bills will create negative impacts on the healthcare system through both creating further barriers to people accessing care and subsequent (social and economic) health burdens due to people delaying treatment. In implementation we also believe the Bill will obfuscate the rights of employers and limit an ability to set organisational principles, values and meet other legislated duty of care and child protection requirements. We believe too the proposed reforms will confuse staff about their rights as employees in circumstances where they experience harassment, including those staff harassed because of their faith by a person of another faith.

It is for but not limited to these reasons Drummond Street Services is unable to support the passage of the Religious Freedom Reform Bills through Parliament.

Kind regards

Karen Field (Chief Executive Officer)

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