



17 December 2021

Senator the Hon Sarah Henderson
Committee Chair
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Sent by email: legcon.sen@aph.gov.au

Dear Senator Henderson

Re: Religious Discrimination Bill 2021 [Provisions], the Religious Discrimination (Consequential Amendments) Bill 2021 [Provisions] and the Human Rights Legislation Amendment Bill 2021 [Provisions]

We are writing to express our opposition to the Religious Discrimination Bill 2021 [Provisions], the Religious Discrimination (Consequential Amendments) Bill 2021 [Provisions] and the Human Rights Legislation Amendment Bill 2021 [Provisions] (“the Bills”).

ACON is Australia’s largest health organisation specialising in community health, inclusion and HIV responses for people of diverse sexualities and genders. Established in 1985, ACON works to create opportunities for people in our communities to live their healthiest lives. The Bills compromise those opportunities.

While we support the notion that people of faith should be able to practice their religion free from discrimination, this Legislative Package fails to protect us all equally, privileging people of faith over other protected people, such as sexuality and gender diverse people, women, and people with disability.

We have provided a substantive response to the Bills to the Parliamentary Joint Committee on Human Rights, outlining our primary concerns with the legislation. Fundamentally, we are concerned that the Bills erode the discrimination protections for those in our communities in order to accommodate people of faith.

In that submission, we recommend the following:

1. **The Religious Discrimination Legislative Package should not proceed**, however in the event that it does, we make the following additional recommendations to reduce the negative impacts of these Bills on some of Australia's most vulnerable people and communities.
2. The Religious Discrimination Bill be redrafted to remove provisions that protect ‘Statements of belief’, in particular s12, s15, and s18(4).
3. The Legislative Package should be amended to make explicit that its provisions, mechanisms and redress avenues do not override, contravene or contradict other areas of federal and state anti-discrimination legislation, to ensure that people represented by other discrimination legislation continue to be protected.

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4. Part 2 of the Religious Discrimination Bill, “Conduct etc. that is not discrimination” must be reviewed and the exemptions for religious bodies narrowed so that:
 - a) Religious discrimination is allowed in activities which directly relate to religious worship, observance, practice and teaching, consistent with international human rights law, and
 - b) Religious discrimination is prohibited for those who are employed by such organisations, unless that discrimination is required to redress historical disadvantage, or the role is sufficiently proximal to religious worship, observance, practice and teaching to require the person be of the same faith as the organisation.
5. Hospitals, aged care service providers, accommodation providers, disability service providers and educational institutions should not be permitted to discriminate in employment.
6. The proposed amendments s19 of the *Charities Act 2013 (Cth)* and s47C of the *Marriage Act 1961 (Cth)* are removed from the Human Rights Legislation Amendment 2021.
7. The Inquiry process is extended to allow for meaningful consultation with those impacted by this legislative package, including vulnerable populations as well as leading gender and sexuality diverse community and legal representatives on how to minimise risks should this Bill be enshrined in law.
8. Section 76 of the Religious Discrimination Bill, “Review of the operation of the Act” be redrafted to require that the legislation be the subject of a formal parliamentary review (including a call for submissions), as well as the review by the Religious Discrimination Commissioner, within two years of its introduction to ascertain the impacts and effects of the legislation on the Australian community.

We provide that submission as an attachment, for your reference. We make the same recommendations to the Legal and Constitutional Affairs Legislation Committee. It is our view that the Bills should not proceed as they represent an unprecedented change in discrimination legislation. However, should they proceed, our recommendations provide guidance on our views of certain components of the legislation.

We are primarily concerned with the sections relating to statements of belief, the employment protections for faith-based organisations, the review process, the protections for charities to espouse a view of marriage that is antithetical to public policy, and the right for religious schools to refuse services for marriage ceremonies. These clauses provide a licence to discriminate that will have practical implications for many protected populations in our communities, undermining their health and safety.

This legislation is complex and needs to be considered carefully to ensure that everyone is protected from discrimination in a way that does not undermine or override existing protections. We are concerned the Inquiry process has not allowed sufficient time to hear from vulnerable communities that are affected by these Bills, or from community and legal representatives on how to minimise the risk these Bills pose to protected populations should they become law.

Kind regards

Nicolas Parkhill
Chief Executive Officer