

Submission to the NSW Law Reform Commission Review of the Anti-Discrimination Act

On Behalf of the Anglican Schools Corporation: Maintaining
Preference for the Appointment of Christian Staff

Introduction

The Anglican Schools Corporation (ASC) welcomes the opportunity to make a submission to the NSW Law Reform Commission as part of its Review of the Anti-Discrimination Act. As an organisation responsible for the governance and oversight of a network of 18 Anglican schools with in excess of 19,000 students across New South Wales, ASC is committed to providing educational environments that nurture and uphold the Christian faith, values, and ethos. This submission seeks to address the ongoing need for legislative exemptions or positive protections that allow ASC and its schools to appoint Christian staff to all positions, ensuring the preservation and flourishing of their distinct character and culture.

Background to Anglican Schools

Anglican schools have a long-standing tradition in New South Wales of delivering high-quality education within a Christian framework. These schools are shaped by the Anglican Church's teachings and worldview, which permeate their curriculum, pastoral care, community life, and extracurricular activities. The distinctiveness of Anglican schools lies not only in their academic excellence but in their commitment to fostering a community that reflects Christian beliefs, values, and practices.

The mission of ASC is to provide educational settings where students are encouraged to grow intellectually, emotionally, and spiritually. The presence of Christian staff throughout all facets of school life is integral to this mission. Christian staff members act as role models, mentors, and guides, illustrating the values and principles that parents expect their children to encounter in an Anglican educational context.

The Importance of Christian Staff Appointments

- Preserving Religious Character and Integrity.
- The ability to preference the appointment of Christian staff to all positions is essential for safeguarding the religious character and integrity of Anglican schools. Staff members are the custodians of a school's culture, influencing students not only through formal teaching but through interactions, relationships, and daily conduct. In every role, from leadership to administration, teaching to support services, staff contribute to the spiritual and moral formation of students.
- Upholding Parental Choice and Expectations.
- Parents who choose Anglican schools do so with the expectation that their children will be educated in an environment consistent with the Christian faith and values that have informed their choice of school for their children. This includes exposure to staff who actively share and model the Christian worldview. Legislative restrictions on the appointment of Christian staff would undermine the trust parents place in ASC's ability to deliver on these expectations.
- Ensuring Authentic Christian Witness.
- The Christian faith, as understood in the Anglican tradition, is not confined to religious education classes or chapel services. It is a holistic worldview that is lived out in all aspects of life. When staff members themselves are committed Christians, the authenticity of the school's witness is strengthened and consistently expressed throughout the institution.

Legal and Social Context

ASC acknowledges the importance of anti-discrimination legislation in promoting equality and protecting individuals from unjust treatment. However, the existing exemptions for religious schools are a recognition of the unique role these institutions play in a pluralistic society. The right to manifest religious beliefs, individually and corporately, is protected under both Australian law and international human rights instruments, such as Article 18 of the International Covenant on Civil and Political Rights.

Anglican schools, like other faith-based educational providers, operate within the framework of these rights and responsibilities. The continuation of exemptions or the inclusion of positive protections in the Anti-Discrimination Act for faith-based staff selection does not constitute unjust discrimination, but rather it enables religious communities to maintain spaces in which their beliefs can be freely lived out and transmitted to future generations.

The Role of Christian Staff in School Life

In Anglican schools, the appointment of Christian staff is not a mere administrative preference, but a fundamental necessity to maintain the ethos and mission of the institution. Christian staff contribute to:

- Curriculum Design and Delivery: Ensuring that the curriculum is infused with Christian perspectives, ethical frameworks, and values.

- Pastoral Care: Providing spiritually-informed support to students and families, and nurturing the wellbeing of the whole child. As an example, staff are expected to lead Christian devotions with students through pastoral care lessons.
- Community Building: Fostering a sense of belonging and purpose rooted in the Christian story.
- Leadership: Guiding the school in vision, decision-making, and policy in alignment with Anglican principles.
- Co-curricular Activities: Supporting Christian service, outreach, and extracurricular programs that reinforce the school's faith identity.

Without the freedom to appoint Christian staff to all positions, the ability to maintain these pillars is gravely compromised. The religious character of the school would be diluted, and its mission jeopardised.

Addressing Concerns about Discrimination

ASC acknowledges that the appointment of Christian staff represents a form of differential treatment. However, this is justified by the need to fulfill the religious mission of the school. This practice is not motivated by prejudice or exclusion, but by the positive goal of sustaining a faith community that is open, welcoming, and consistent in its witness.

It is important to note that Anglican schools welcome students and families of all backgrounds, and seek to cultivate respect and understanding among diverse members of the community. The ongoing capacity to preference the employment of Christian staff to all positions does not prevent the practice of inclusion and respect for all, but ensures that the distinctive character of the school is upheld.

International Precedents and Best Practice

Globally, faith-based schools are recognised as legitimate and valued contributors to educational diversity. Countries such as the United Kingdom, New Zealand, and Canada provide for religious schools to employ staff consistent with their ethos. These practices are grounded in a recognition of the rights of religious communities to maintain their unique character, and the importance of parental choice in education.

Australia's own legal tradition supports the rights of faith-based organisations to select staff in line with their religious convictions. The ongoing exemption or provision of positive protections in anti-discrimination legislation is not anomalous, but aligns with established principles of religious freedom and pluralism.

Recommendations

In view of the above, ASC respectfully submits the following recommendations to the NSW Law Reform Commission:

- That the Anti-Discrimination Act continue to provide clear and robust exemptions for faith-based schools, enabling the appointment of Christian staff to all positions.
- That these exemptions be protected from dilution or removal, to ensure the ongoing ability of Anglican schools to maintain their distinctive religious character and mission.
- That the Commission recognise the fundamental importance of staff appointments in shaping the ethos and culture of faith-based educational institutions.
- That any amendments to the Act be made in consultation with faith-based educational providers to avoid unintended consequences for religious freedom and educational diversity.

An alternative and acceptable approach would be the reframing of legislation for religious bodies away from an 'exceptions' model to a 'general limitation clause' model, that makes a positive statement that certain acts are not discrimination. For instance, a religious body does not discriminate against a person by acting, in good faith, either in accordance with the doctrines, tenets, beliefs or teachings of its religion, or to avoid injury to religious susceptibilities. This can expressly give preference to persons to the same religion as the religious body in employment.

Conclusion

The Anglican Schools Corporation is grateful for the opportunity to contribute to this important review. The continued ability to appoint Christian staff to all positions is foundational to the character, culture, and mission of Anglican schools. It is a practice rooted in respect for religious freedom, parental choice, and educational diversity. ASC urges the NSW Law Reform Commission to maintain and strengthen existing exemptions in the Anti-Discrimination Act, in the interests of a pluralistic and inclusive society that honours the rights of all communities.

Should the Commission require further information or wish to discuss this submission in more detail, ASC welcomes the opportunity for ongoing engagement.

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