

PRE-SERVICE TEACHER OVERSIGHT

(Submitted: 24 February 2023)

Thank you for the opportunity to provide this personal correspondence ("submission") for consideration to this advisory panel ("panel"), which is looking at reforming ("religious reforms") the provisions in states/territories concerning exemptions of religious schools from anti-discrimination legislation at the state/territory level ("religious exemptions").

In general, religious exemptions are deleterious to religious bodies, in the following ways:-

- a) **Reputation** - It damages that institution's credibility.
- b) **Corruption** – If institutions appear to be above the law, they run the real danger of attracting those who would take advantage of that institution's immunity, or, worse still, encouraging the performance of those immune actions amongst the institution's legitimate members.

This submission, however, will focus on the effect of the current religious exemptions on one particular group of people, who seem to be neglected from consideration in the religious reforms proposed.

I. PRE-SERVICE TEACHERS

Many LGBTI+ people are affected by the discriminatory practices of religious schools. However, in my case, I was neither: –

- a) a student (in danger of being expelled); or
- b) an employee (in danger of being fired).

However, the exemption of religious schools from the NSW anti-discrimination legislation has recently deleteriously impacted my professional life. This submission's aim is to bring to the attention of this panel the problems that pre-services teachers experience, whilst the

current scheme of religious exemptions is in force. Pre-service teachers are students completing the practicum part of their course in order to qualify to work as a teacher, gaining workplace and training experience, but without pay.

As part of obtaining their teaching degree, each student must perform a minimum amount of workplace experience in a school. I am a Masters of Teaching student [REDACTED] [REDACTED] Masters of Teaching students must all complete 3 practicum sessions during their 2-year Master of Teaching course. The second session (the focus of a complaint of harassment by myself) involved a 3-week practicum placement. Universities apparently assign students to schools randomly. I was assigned a placement at a NSW Catholic High School [REDACTED] even though I specifically made it clear that I was an LGBTI+ student and had a preference for not working in any religious school.

I experienced humiliating, abusive and discriminatory treatment based on my sexuality, resulting in a failure result, which could have meant my being unable to complete my Master of Teaching degree. All of this resulted in my making a formal complaint of harassment to the university [**Note:** A complaint of discrimination against the school is impossible under the current laws]. Informal conversations with other students have convinced me that I am not alone in having encountered such problems.

The advisory committee's "terms of reference" ¹ means it will be, amongst other things, facilitating the federal government's plans to ensure that religious schools:-

"must not discriminate against a member of staff on the basis of sex, sexual orientation, gender identity, marital or relationship status or pregnancy" ²

Preservice teachers are treated in a similar way to staff, but are not staff. A pre-service teacher's lack of seniority means that they are a group particularly susceptible to discriminatory behaviour, especially from their practicum supervisors. Pre-service teachers are unpaid, unlike religious institutions which have substantial resources, often accumulated tax free, meaning that pre-service teachers are often not in a financial position to challenge such inappropriate behaviour. Indeed, pre-service teachers are at the mercy of our practicum supervisors, who write their report and have discretionary power to pass or fail us, thus determining whether they can even complete their teaching degree.

¹ Australia Law Reform Commission (January 2023) "*Religious Educational Institutions and Anti-Discrimination Laws*", p.3 [\[URL\]](#)

² Australia Law Reform Commission (January 2023) "*Religious Educational Institutions and Anti-Discrimination Laws*", p.4 [\[URL\]](#)

The terms of reference go on to say it will be empowering religious school to perform actions that:-

*"can continue to build a community of faith by giving preference, in good faith, to persons of the same religion as the educational institution in the selection of staff."*³

Once again pre-service teachers are not mentioned. This omission suggest that religious schools will be given considerable latitude in how they run their schools, but not to the point of firing teachers, suggesting that their behaviour towards pre-services teachers will not be curtailed under the current religious reforms.

Catholic school are known for being a particular problem concerning these religious exemptions. I am also aware that a consortium of Catholic schools is even making a submission against the religious reforms.

I. UNIVERSITY PROCEDURES

1) Practicum Assessment - The aim of the pre-service teacher program is to provide an unbiased assessment of their performance in a classroom. If the legislative scheme will preserve a religious school's ability to give "preference, in good faith, to persons of the same religion as the educational institution in the selection of staff", then they clearly will be not exercising the objectivity required under the practicum assessment process. Instead of assessing students on their merits, they will be endorsed to reject those who do not fit their criteria.

My own personal complaint over my practicum placement was eventually resolved by withdrawing me completely from my practicum subject, setting me back an entire year. My preference for a non-religious school will be recorded for future placements. My question is "why are the universities not forced to proactively check with students before placing them in such dangerous environments?"

³ Australia Law Reform Commission (January 2023) "*Religious Educational Institutions and Anti-Discrimination Laws*", p.4 [\[URL\]](#)

There is no choice, and the assignment is beyond the student's control. If religious schools are going to be able to enforce their religious ethos, there needs to be the option for pre-services teachers to opt out of assignment to such an environment, sufficient option to leave such an environment, and sufficient protections to ensure they are not harmed by such enforcement.

2) Course Content - The syllabuses have significant inclusivity for sex, e.g. mandating that female scientists are mentioned when discussing historical contributions to astronomy etc, and race, e.g. indigenous perspectives on science etc, but there is nothing on sexuality, e.g. LGBTI+ historical scientific contributions etc. As a result, the teacher training programs, which largely reflect the priorities of the syllabus, have no inclusion of sexuality or LGBTI+ content.

3) Placement Assignment – The balance of religious school's rights with those of students, and staff is the terms of reference focus for the religious reforms. However, the currently analysis seems only to focus on the existing exemptions to the religious discrimination act and balancing this with additional protection to religious workplaces. This neglects the fact that religious workplaces and workers already get substantial protections, benefits, allowances and privileges, which need to be accounted for and equalised. It is not a case that this submission argues for this advisory panel to strip religious workplaces and workers of their special legal treatment. However, if a balance is the aim, all factors need to be placed on the "balance scale" to ensure a complete picture.

III. REFORM IMPACT

Currently there is a lack of accountability for practicum supervisors, including a lack of any sort of code of conduct beyond simply ensuring criticisms of pre-service teachers accepted by universities are within guidelines. There is a duty of care towards pre-service teachers, which is not full recognised by the university or the schools, which is currently restricted by the religious exemptions, a tenuous protection, which might be further eroded by these religious reforms, if the issue of pre-service teachers is not specifically and effectively addressed.

IV. RECOMMENDATIONS

1) Practicum Placements - Prohibiting Universities from assigning practicum placements to religious schools, or at least requiring universities to obtain consent to allocating pre-service teachers to practicum placements;

2) Uniform Workplace Privileges – In junction with enacting provision to allow religious schools to protect their workplace ethos (proposition C⁴ and proposition D⁵), there needs to be a nullification of the existing state/territory provisions which give unwarranted greater protection to religious workplaces in exercising their function, e.g. NSW prohibition on obstructing clergy discharging their duties⁶ etc, or at least mandate similar protections to those these religious bodies target, e.g. LGBTI+ people.

3) Pre-Service Teachers - Ensuring that pre-service teachers on practicum are explicitly protected under the law, in a similar manner to staff members.⁷ However, also taking into consideration a pre-service teacher's lack of employment and unequal power/financial relationship to staff. As well as, ensuring that each school's policy guidelines, and each university's policy guidelines, provide comparable protection.

4) Uniform Workplace Privileges - To extinguish special provisions in non-religious workplaces for religious workers, including chaplains in organisation like the Defence Force.⁸

5) Church and State Separation - Allow non-religious schools the power to restrict religious content, in the same way religious school will have be given the power the protect their ethos in religious schools. This would include abolishing the teaching of religion in non-religious schools and the chaplaincy program.

⁴ Australia Law Reform Commission (January 2023) "*Religious Educational Institutions and Anti-Discrimination Laws*", p.22 [\[URL\]](#)

⁵ Australia Law Reform Commission (January 2023) "*Religious Educational Institutions and Anti-Discrimination Laws*", p.25 [\[URL\]](#)

⁶ *Crimes Act 1900* (NSW), 56 [\[URL\]](#)

⁷ Australia Law Reform Commission (January 2023) "*Religious Educational Institutions and Anti-Discrimination Laws*", p.20 [\[URL\]](#)

⁸ *Defence Force Discipline Act 1982* (Cth), 6(1)(a) [\[URL\]](#)

6) Religious Exemptions - Reviewing all the rights, benefits, privileges, and allowances afforded to religions under state/territory laws and annulling them, e.g. overturning religious exemptions to serious animal cruelty⁹, or limiting their application in school settings, e.g. not allowing the religious exemption for severe cruelty to animals on school grounds. **[Note:** Animal cruelty has a special significance in schools due to its precursor to offences against people, and carries with it a special reporting duty¹⁰]

V. CONCLUSION

Pre-services teachers are significantly impacted by the current religious exemptions, but seem to be neglected by the current propose religious reforms. Handling by universities of practicum placement assessment, practicum placement allocation, and even its course content in general has problems when the exemptions are in place, which will only get worse if these reforms neglect pre-services teachers. Therefore, this submission proposes six recommendations to holistically address some issues with the current legislation but also suggests the intended remedy for these problems.

⁹ *Crimes Act 1900* (NSW), s530(2)(b) [\[URL\]](#)

¹⁰ *Child Protection (Working with Children) Act 2012* (Cth), s33A [\[URL\]](#)