

**Submission Regarding the Australian Law Reform Commission (ALRC)
Consultation Paper (2023):
Proposals to change the way Commonwealth anti-discrimination law applies to religious
schools and other educational institutions.**

Thank you for this opportunity for members of the public to make submissions in response to the Proposals made by the Australian Law Reform Commission (ALRC) on the important issue of religious schools and other Religious Educational Institutions (REIs). I wish to make it clear at the outset that I am a Christian and will be building my submission around Christian religious schools, although many of my comments will also apply to schools run by other religious entities.

Background:

It would be no over-statement to point out that the proposals made by the ALRC in the above-quoted Consultation Paper (2023) involve very serious over-reach on the part of the Australian Government and the ALRC into the affairs of Religious Educational Institutions. The proposition to change Commonwealth anti-discrimination laws to remove exceptions currently available for REIs is a blatant attempt by the Australian Government and the ALRC to minimise religious freedoms, freedom of speech and freedom of association for people of faith in this country.

Religious schools are “communities of faith” meaning that those who attend and work there share a common system of beliefs centred around their texts (for Christians, the Bible) and their desire to encourage one another to grow in their own and each other's lived expression of their beliefs. In a democratic nation, “communities of faith” should be free to speak openly about their beliefs and not face outside directives or pressures to conform to others' beliefs, or to change their sincerely held beliefs.

It is the right of people in a democracy to have the choice to send their children to a school that teaches, exemplifies, models and encourages the life-long pursuit of their family's faith-based teachings so that there is a seamless congruence between their child's life at school, home and “community of faith” to best prepare them for a secular world.

Currently, 30% of Australian school students are educated at REIs by parental choice for a range of reasons that include:

- Moral teaching;
- Character-building with an emphasis on developing a well-rounded and “complete” person;
- Academic excellence; and
- Teaching about faith-based issues, prayer and Christian culture across the whole curriculum.

Because parents sacrificially budget to pay for their children's education at these REIs, the governments at state and federal levels are saved huge expenditures on the relative costs of education per child compared with public schools. Far from increasing its intolerance of religious schools, the government should be a strong supporter of REIs that have a

consistent record of improved educational outcomes, less criminal activity by graduates and more stable employment by those who have attended REIs compared with public school graduates – all saving considerable government money and in fact, by increased tax paid by these graduates, an improved revenue base for the government, and thereby society in general.

Unfortunately, there is a lack of protections for people of faith within Australia – something raised during the lead up to the same-sex marriage plebiscite in 2017, and promised by various government leaders at the time: to ensure that religious organisations and individuals would continue to be free to express their beliefs without fear or favour in our democracy. However, the lack of a Religious Anti-Discrimination Bill, failing protections and the ever widening use of anti-discrimination legislation by interested parties (including these proposals by the ALRC) have meant that people of faith and their institutions are increasingly being subjected to vilification, claims of discrimination against individuals, and efforts to silence their influence in the public domain. Christians and other religious minorities in this country are being forced to comply with secular points of view and conduct, and debate on these issues is being stifled by the media and activists who increasingly seek to remove all traces of religious faith from Australian public life.

Christians like myself stand firmly opposed to such measures and maintain that, in a democracy such as Australia, far from being silenced and overruled by legislative and legal processes, we intend to use every legitimate and legal process available to us to continue to ensure that religious freedoms are protected in Australia, and that religious educational institutions and organisations are able to carry on making the positive and important contributions they have made for centuries in the lives of so many in western nations.

Proposition “to make discrimination against students on the grounds of sexual orientation, gender identity, marital or relationship status, or pregnancy in schools and other religious educational institutions unlawful, by removing exceptions currently available under federal law”:

This Proposition alleges that discrimination currently exists in REIs despite the fact that neither the ALRC nor the media have ever found a single case where this “discrimination” against students has occurred. Hence – the Proposal seeks to “fix” something which is not actually “broken”, and to use legislation to force REIs to forfeit their rights to have their own Codes of Conduct for all members of their school communities.

Having had both children and grandchildren attending Christian schools, I have seen overtly gay or gender-diverse students at the school being treated with the same courtesy and compassion that all other students at the school receive. Far from being expelled by REIs, if anything, they have experienced a higher level of pastoral care and support than others. The ALRC’s Proposal implies that such students are currently the object of damaging discrimination when there is no evidence that this is occurring at all. This is a dishonest tactic unbecoming of a serious legal body which should know better than to misrepresent Australian citizens and their organisations in this way.

I challenge the ALRC to come up with an evidence-base that delineates the “need” for this substantial loss of religious rights and freedoms by REIs due to systematic and repetitive examples of such “discrimination” occurring. If no evidence can be found, the ALRC should state this publicly and clearly, and strengthen the rights of REIs to continue to offer the compassionate and safe environment that they currently do for all their students.

The Proposal to “*protect teachers and other school staff from discrimination on the grounds of sex, sexual orientation, gender identity, marital or relationship status, or pregnancy, by removing similar exceptions*”:

Again, this Proposal alleges that discrimination currently exists in REIs despite the fact that neither the ALRC nor the media have found cases where this “discrimination” against staff members has occurred. Once again, if no evidence can be found, the ALRC should state this publicly and strengthen the rights of REIs to continue to offer the compassionate environment that they currently do for their staff members.

The Proposal to : “*allow religious schools to maintain their religious character by permitting them to give preference to prospective staff on religious grounds where the teaching, observance, or practice of religion is a part of their role (and it is not discriminatory on other grounds)*”:

This is a patronising attempt to imply that Christian schools only teach an observance of some moral behaviours, whereas in fact the entire school curriculum is inclusive of the ways in which the Christian faith impacts every aspect of a believer’s life, learning, behaviours and beliefs. Hence, every staff members needs to believe the tenets of the faith-based school personally, regularly practice their faith by attending a local church, and model their faith by speaking openly with other staff and students about their beliefs. This will include sexual behaviour being limited to a Christian marriage, but will also include wise management of smoking/alcohol use, and abiding by the school’s Code of Conduct.

I do NOT believe the law should be changed to force faith-based schools to employ any staff member regardless of that person’s beliefs, behaviour or attitudes to a wide-range of issues. Staff members should abide personally by the religious teaching of the faith-based school’s charter on sex, gender or any other issues, just as they should exemplify the teachings of the faith being taught, not just have “agreements in principle” that exclude their personal lifestyle. So I DO believe it is appropriate to discriminate between staff applying for these positions on the grounds of their sexual orientation, gender identity and relationship status. Parents are paying to have their child/ren taught by staff who model the religious beliefs of the faith-based school, so having staff who do not agree with the behavioural tenets of that faith should not be employed by those schools. This is no more "discriminatory" than members of a political party or social club expecting new members to abide by the same "statutes" or "rules" of that organisation as do current members.

How many other organisations are being forced to employ people who don’t support the ethos of that entity? For example, does the Labor Party have to accept members or employ people who have strong evangelical Christian beliefs about marriage, public worship or presentations about that person’s individual faith? Once again, it is activists who want to

force compliance to their way of thinking on all of us, and try to label religious educational institutions as discriminatory when in fact they (the activists) are the ones who are intolerant of, and discriminating against, the rights of people of faith and their faith-based organisations. Such activists use innuendo or legal tactics to damage the reputation of REIs as well as people of faith in unacceptable and targeted ways. Instead of weakening religious protections, the ALRC should be exposing this activist behaviour and using their legal status to speak the truth about the commendable attributes of these religious organisations and individuals.

The Proposal to: *“allow religious schools to maintain their religious character by permitting them to require all staff to respect the educational institution’s religious ethos”:*

This Proposal indicates that the ALRC does not appreciate that Christian schools do not simply promote a “religious character” or a “religious ethos” in their staff or teachings – quite the opposite. The Christian faith and life involves every aspect of a person’s life: physical, mental, spiritual, emotional and sexual. It is not enough for REIs to “maintain their religious character” as though Christians just “go through the motions” in their beliefs. Rather, Christians have a deep-seated belief and adherence to Christ as the head of the church and the Lord over their entire lives.

Perhaps if the ALRC had spoken directly with a wide range of Christians (and others of deeply-held religious beliefs), they would have a better understanding of how foundational those beliefs are and the personal, growing relationship Christians have with Jesus Christ Himself.

Conclusions:

Australian society pays lip-service to concepts like “diversity” and “tolerance”, yet such views do not extend to people of faith in this nation. We have seen Christians treated appallingly in the public arena for expressing their heart-felt beliefs or even for attending a conservative church. We need look no further than Margaret Court, Scott Morrison, Israel Folau or Andrew Thorburn to see very obvious examples of this in the recent past. Those that speak most about “antidiscrimination”, including the ALRC, in fact use “antidiscrimination laws” to intimidate, harass, silence and exclude Christians (and others of faith) from the public sphere. I do not believe that this is acceptable in a democratic nation like Australia.

Far from losing further freedoms of religion, speech and association, I would urge the ALRC and the Federal Government to protect the rights of those who have set-up Christian or religious schools; to employ staff who share and practise these heart-felt beliefs; to be able to have appropriate Codes of Conduct for all in the school community based on their sincerely held beliefs; and to communicate their beliefs on school websites or through other communications without fear of a severe media or legal backlash.

Religious schools and institutions should be commended and supported for the very positive benefits they bring to our democratic nation, and the ALRC and Australian state and federal governments should be protecting people of faith from attempts to diminish their beneficial legacy in the lives of individuals and communities throughout Australia.

I look forward to seeing a much more favourable response from the ALRC to my submission and the many surveys and submissions made by people of faith to its Proposals. I would also urge the ALRC to strengthen protections of religious freedoms under this government for the well-being of all Australians.

E. Brown